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No. 92-732

IN THE

Supreme Court of the United States

OCTOBER TERM, 1992

GULF STATES STEEL, INC. OF ALABAMA,
Petitioner,

v.

THE LTV CORPORATION, *et al.*,
Respondents.

On Writ of Certiorari to the
United States Court of Appeals
For the District of Columbia Circuit

BRIEF AMICUS CURIAE OF THE STATE OF ALABAMA IN SUPPORT OF GULF STATES STEEL, INC. OF ALABAMA'S PETITION FOR A WRIT OF CERTIORARI

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I. INTEREST OF AMICUS CURIAE THE STATE OF ALABAMA

The State of Alabama ("State"), through its Attorney General James H. Evans, hereby respectfully files this brief *amicus curiae*, pursuant to Rule 36 of this Court and the *parens patriae* authority of the State,[1] in support of Petitioner Gulf States Steel, Inc. of Alabama's ("GSSI") October 26, 1992

[1] The Attorney General also specifically is authorized to represent the State in any and all legal actions concerning the Alabama Environmental Management Act, *Code of Alabama*, 1975 §§ 22-22A-1 through 16 (1990) *Id* at § 22-22-A-13.

Petition for a Writ of Certiorari to reverse the June 12, 1992 decision and August 4, 1992 mandate of the Court of Appeals in *LTV Corp. v. Gulf States Steel, Inc.*, 969 F. 2d 1050 (D.C. Cir. 1992) (Wald, J).

This Court has held that the State has standing under Section 16 of the Clayton Act, as amended, 15 U.S.C. § 26 (1988) to seek divestiture to ameliorate the anticompetitive effects of an unlawful merger. *See California v. American Stores Co.*, 495 U.S. 271, 281-84 (1990). This case highlights the importance of the role of the State in enforcing the terms of such a divestiture.

The State's interest here is to enforce orders of the District Court of the District of Columbia ("District Court") implementing the terms of an antitrust consent decree, under which Respondents ("LTV") had agreed to retain and assume environmental liabilities at a Gadsden, Alabama steel mill that LTV was required to divest, in exchange for the government's approval of LTV's acquisition of Republic Steel Corporation. *See United States v. LTV Corp.*, 1984-2 Trade Cas. (CCH) ¶ 66,133 (D.D.C.), *appeal dismissed,* 746 F.2d 51 (D.C. Cir. 1984) ("August 2, 1984 Final Judgment"); *United States v. LTV Corp.*, No. 84-0884 (D.D.C.), *appeal dismissed*, (D.C. Cir. Feb. 20,

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The Alabama Department of Environmental Management ("ADEM") has been delegated and designated as the authorized state agency responsible for enforcement of: (1) the Federal Clean Air Act, 42 U.S.C. § 7401 *et seq.*, as amended; (2) the Federal Clean Water Act, 33 U.S.C. § 1251 *et seq.*, as amended; and (3) the Solid Waste Disposal Act, 42 U.S.C. § 3251 *et seq.*, as amended, and including 42 U.S.C. § 609 *et. seq.* *See* Code of Alabama 1975 § 22-22-A-4(n) (1990). Moreover, ADEM has been authorized *to take all actions* necessary and appropriate to secure to the State the benefits of these environmental laws. *See* Code of Alabama, 1975 §§ 22-22A-1 through 16 (1990).

1986) ("December 17, 1985 Divestiture Order"). *See* Pet. GSSI App. I, at 642; Pet. GSSI App. K, at 113a.[2]

The Court of Appeals erroneously held that LTV did not have actual notice of the environmental claims at issue in this case and therefore GSSI was precluded, as a matter of law, from recouping expenses made for corrections to achieve and maintain environmental compliance at the Gadsden plant that arose out of the conduct of Business prior to the January 31,1986 divestiture, see Pet GSSI App. A, at 22a-24a, even though $19,590,000 of this amount was made under compulsion by and subject to consent decrees with the State or ADEM. *See* State App. V, at 76a through State App. CC, at 117a.

The State's role in this case requires a brief discussion. From the beginning, the State has sought to ensure that LTV would assume environmental liabilities at the Gadsden plant, which the District Court and its trustee found was a necessary prerequisite to induce a new entrant to undertake the risk of purchasing the Gadsden plant and placing it in a position so that it could interject competition into the domestic steel industry. On April 1, 1991, the State filed a motion to intervene, or in the alternative to file as an *amicus curiae* before Judge Stanton of the District Court for the Southern District of New York to support the withdrawal of LTV's adversary proceeding against GSSI for collection of a $31 million balance remaining on a promissory note from the Southern District of New York ("Bankruptcy Court") and transfer of venue to the District Court. *See LTV Corp. v. Gulf States Steel, Inc.*, No. 91-1826 (S.D.N.Y.).

On April 1, 1991, the State independently filed a motion in the District Court to intervene in *United States v. LTV Corp.*, No. 84-0884 (D.C.C.), to enforce its rights under the August 2,

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[2] In the interest of avoiding the submission of duplicative materials, the State has referenced herein certain documents found in GSSI's Appendix, which hereinafter will be designated as "Pet. GSSI App. ___, at ___a."

1984 Final Judgment. As a result, on April 9, 1991, LTV filed a motion for contempt against the State in the Bankruptcy Court because the Attorney General declined to withdraw that motion, which LTV contended was a violation of the automatic stay. On April 10, 1991, the Bankruptcy Court held a hearing in which the State also declined to participate to avoid the appearance of submitting to that court's jurisdiction. At that hearing, LTV was advised by the Bankruptcy Court to withdraw its motion for contempt. LTV did so.

On May 3, 1991, the District Court for the Southern District of New York withdrew the reference of the adversary proceeding and venue was transferred to the District Court. The State was informed shortly thereafter by representatives of the United States that it would oppose the State's motion to intervene in *United States v. LTV Corp.*, No. 84-0884 (D.D.C.), but would not oppose its participation as an *amicus curiae* or its participation in the instant adversary proceeding. *See* Pet. GSSI App. Y, at 203a. Rather than engage in an ancillary jurisdictional dispute, on May 23, 1991, the State moved to intervene in this case, or in the alternative, to file as an *amicus curiae*. On June 5, 1991, the District Court denied the State's motion to intervene.

The District Court indicated, however, that the State's description of the environmental laws and regulations relevant to this case and LTV's compliance therewith prior to the divestiture would be of assistance. Therefore, on August 24, 1991, the State filed an *amicus* brief, as requested, and submitted affidavits prepared on July 31, 1991 by ADEM's chief enforcement officials. *See* Pet. GSSI App. W, at 198a; Pet GSSI App. X, at 199a. On August 26, 1991, the District Court granted the State's motion to file as an *amicus curiae*.

At an evidentiary hearing held on August 27-28, 1991, ADEM enforcement records and LTV internal records concerning meetings with ADEM enforcement officials were admitted into

evidence. *See, e.g.*, State App. E, at 24a through State App. U, at 75a.[3] In addition, ADEM officials were called by GSSI to testify on rebuttal, but the District Court informed them that their testimony was not necessary and they did not take the stand. After the hearing, the July 31, 1991 ADEM affidavits were admitted into evidence.

In the Court of Appeals, the State also filed a similar *amicus* brief attaching the July 31, 1991 ADEM affidavits and a chronology of environmental compliance at the Gadsden plant, referencing numerous ADEM enforcement records admitted in the District Court. These documents demonstrate that LTV had actual notice from the State of the "amount and circumstance" of environmental claims at the Gadsden plant as of the time of the divestiture — which were ***virtually identical*** to those sought by GSSI in this case, as to water treatment, Coke Plant, and Basic Oxygen Furnace ("BOF") facilities at the Gadsden plant.

The Court of Appeals' June 12, 1992 decision, however, is devoid of any evidence that it considered the State's participation therein or below— or even that it deemed the knowledge of the state environmental officials relevant. Indeed, the Court of Appeals went so far as to preclude ADEM enforcement officials from testifying on remand as to what and when LTV knew about GSSI's environmental claims, by its denial of GSSI's Petition for Rehearing and Suggestion for Rehearing *En Banc*, even though it opined that "[o]f course, knowledge of the environmental problems at the plant is not the same as knowing about the specific steps taken by the ADEM and the EPA to require remedial action." *See* Pet. GSSI A, at 22a.

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[3] References to the State's Appendix, hereinafter will be designated as "State App. ___, at ___a." Among the ADEM documents and LTV documents admitted by the District Court to evidence LTV's actual notice of the environmental claims at issue, are those attached hereto in State App. A, at 1a; State App. E, at 24a through State App. U, at 74a.

Had the Court of Appeals followed the procedural and substantive analysis in *Rufo v. Inmates of Suffolk County Jail*, 112 S. Ct. 748, 765 (1992), it would have upheld the District Court's December 5, 1991 finding and conclusion that "LTV had timely notice, written and otherwise of GSSI's indemnification claims," *see* Pet. GSSI App. B, at 39a, ¶5, because LTV would have been required to demonstrate either that it assumed environmental liabilities at the Gadsden plant prior to divestiture or that such assumption was no longer warranted. In either case, LTV would have had to demonstrate that it had notice of the "amount and circumstance" of GSSI's environmental claims at issue in this case.

II. SUMMARY OF ARGUMENT

The contract at issue in this case concerns LTV's obligations to the District Court, as contained in the August 2, 1984 Final Judgment — an antitrust consent decree to which the State was and is an intended and direct beneficiary. *Compare Rufo* 112 S. Ct. at 757 ("**A consent decree** no doubt embodies an agreement of the parties and thus in some respects is contractual in nature. But it **is an agreement that the parties desire and expect will be reflected in and *be enforceable as a judicial decree*** . . . .") (emphasis added) *with* LTV Opposition Brief at 1.

Since the Court of Appeals' responsibility was to review a *judicial decree*, its selective "de novo" review was improper and defective *ab initio*. Neither the January 31, 1986 Asset Purchase Agreement nor promissory note can be reviewed independent of the August 2, 1984 Final Judgment and the District Court's orders implementing the consent decree's terms. Therefore, LTV's argument that this dispute concerns solely the terms of the 1986 Asset Purchase Agreement between LTV and GSSI is incorrect and misleading. *The District Court's December 17, 1985 Divestiture Order required LTV to divest the Gadsden plant, on terms that specifically incorporated by reference the* ***August 2, 1984 Final Judgment, which provided that LTV***

could be required by the District Court's trustee to retain and assume all liabilities at the Gadsden plant as of the divestiture, if LTV itself did not divest the plant within six months after entry of the consent decree as a final judgment. Thus, this dispute concerns the very "essence of [the] agreement," as it is described in the words of the preamble to the August 2, 1984 Final Judgment. *See* Pet. GSSI App. I, at 93a. *Accord Rufo* 112 S. Ct. at 759 ("None of the changed circumstances warranted modification because it would violate one of the primary purposes of the decree . . . .").

The Court of Appeals' erroneous adoption of LTV's contract analysis also failed to recognize that, as a matter of law, no private party — not even GSSI — could obviate the terms of the August 2, 1984 Final Judgment, without the specific agreement of the United States or the District Court, which is found nowhere in this record. *See, e.g.*, Pet. GSSI App. E , at 58a, ¶2; Pet. GSSI App. Y, at 202a. Nor did the District Court's December 17, 1985 Divestiture Order permit GSSI and LTV to do so by amending the Asset Purchase Agreement, as LTV would have this Court believe. *Id.* The enforcement and public policy rationale for this is not difficult to understand — since horizontal competitors, such as LTV and GSSI, certainly could find a way to reach an accommodation that would suit their business needs, but work to deny the public the environmental and competitive benefits of the divestiture. *Id.* At the time of the divestiture, LTV had actual notice from the State of certain environmental liabilities it was required to retain and assume, as well as their "amount and circumstance[s]." Other than compliance for the benzene NESHAP, those were virtually identical to the environmental claims made by GSSI below.

III. ARGUMENT

A. LTV HAD PRIOR ACTUAL NOTICE FROM THE STATE OF CERTAIN ENVIRONMENTAL CLAIMS AT ISSUE IN THIS CASE.

The Court of Appeals' failure to consider the relevance of the record of the divestiture proceedings in *United States v. LTV Corp.*, No. 84-0884 (D.D.C.), *appeal dismissed*, (D.C. Cir. Feb. 20, 1986), and the enforcement records and affidavits from ADEM enforcement officials, admitted into evidence by the District Court, led to its erroneous ruling that LTV was prejudiced by GSSI's actions. There is no question that LTV had actual notice from the State that its failure to achieve and maintain compliance with the National Pollutant Discharge Elimination System ("NPDES") permit requirements in 1984 violated both state and federal law. *See* Pet. GSSI App. T, at 172a-183a. *See also* Pet. GSSI App. W, at 198a. Therefore, LTV had actual notice that NPDES compliance was an environmental liability that it was required to retain and assume under the August 2, 1984 Final Judgment. *See* Pet. GSSI App. T, at 175a-183a. Indeed, the $5,350,000 amount GSSI claimed for NPDES compliance was for the same violations as those faced by LTV and the amounts spent by GSSI were well within the "5.2 million (1982 Dollars)" to "$20 million (1982 dollars)" range that LTV expected would be required in 1986. *See* GSSI App. T, at 182a-183a.; Pet. GSSI App. R, at 146a (10 million-13 million for Water Treatment for Coke Plant and Galvanizing Line). *See also* Pet. GSSI App. S, at 164a, ¶ 21.

In addition, LTV had actual notice from the State of LTV's failure, prior to January 31, 1986, to achieve and maintain compliance with the following Alabama Pollution Control Rules and Regulations at the Gadsden Coke Plant: Section 4.9.4(a) (Coke Oven Doors-Pushing); Section 4.9.6(a) (Coke Oven Doors); Section 4.9.8 (Coke Oven Stacks); and at the

BOF: Section 4.1.1 (BOF Roof Monitor); Section 4.9.8 (BOF Combustion Stack); Section 4.17.1 (BOF Shop Roof Monitor) *See* State App. E, at 24a through State App. U, at 74a. Therefore, LTV had actual notice that compliance with regulations governing the Coke Plant and BOF were environmental liabilities at the Gadsden plant that LTV was required to retain and assume under the August 2, 1984 Final Judgment. *See* Pet. GSSI App. R, at 146a ($6 million for B.O.F. Precipitator Repairs and No. 3 [Coke] Battery Rehabilitation); Pet. GSSI App. T, at 170a-172a, 175a-176a; and Pet. GSSI App. X, at 199a-200a; State App. E, at 24a through State App. U, at 75a. *See also* Pet. GSSI App. S, at 164a, ¶ 21. Moreover, GSSI's environmental claims were for compliance with the same regulations and in amounts known or foreseen by LTV prior to January 31, 1986. *Id. See also* State App. V, at 76a through State App. CC, at 117a. Therefore, LTV had actual notice of the "amount and circumstance[s]" of these environmental claims made by GSSI.

The Court of Appeals also failed to recognize that LTV could have made the expenditures necessary to bring the Gadsden plant into environmental compliance prior to closing and was given that opportunity by the State on many occasions. *See* State App. E, at 24a through State App. U, at 75a. Indeed, the record clearly reflects that in September 1985, LTV had notice that the "amount and circumstance[s]" of potential environmental claims at the Gadsden plant would be, at least:

(1) Water Treatment for Coke Plant	$7,000,000-10,000,000
(2) B.O.F. Precipitator Repairs	3,000,000
(3) Hot Strip/Cold Strip Water Treatment [Galvanizing Line]	3,000,000
(4) No. 3 Battery Rehabilitation	3,000,000
(5) Additional Solid Waste Disposal Area	2,000,000
Total	$18,000,000-21,000,000

See Pet. GSSI App. R, at 146a. *See also* Pet. GSSI App. T, at 170a-183a.

All environmental claims sought by GSSI and awarded by the District Court's December 2, 1991 Order, other than $9,000,000 for benzene control, were for environmental corrections made by GSSI under compulsion by and subject to consent decrees with the State or ADEM, and in amounts in accord with or of which LTV had prior actual knowledge. *See* State App. V, at 76a through State App. CC, at 117a. *Compare* Pet. GSSI App. R, at 145a-146a; Pet. GSSI App. T, at 170a-183a; and Pet. GSSI App. S, at 165a ("In the first two years after the sale to Brenlin, the cash financial impact on LTV will be $99.2 million. The total cash financial impact of the Brenlin proposal on LTV over the years is $263.5 million. Additional cash penalties would be incurred that cannot be calculated. These penalties, would result from . . . (f) costs of post-closing funding for . . . Environmental compliance.") *with* Pet. GSSI App. Z, at 204a:

(1) Coke Water Treatment Plant	$3,350,000
(2) BOF Corrections	5,500,000
(3) Galvanizing Line Water Treatment Plant	2,000,000
(4) Coke Plant (No. 2 and No. 3 Battery)	8,740,000
Total	$19,590,000

See also State App. V, at 189a; State App. W, at 198a.

LTV decided that it was advantageous to its financial interests to defer and let GSSI make the necessary expenditures for environmental compliance. Thus, LTV was not "deprived of the opportunity to participate in the defense and settlement of the *underlying claims*," for which it was held responsible, contrary to the conclusion of the Court of Appeals. *Compare* Pet. GSSI App. A, at 24a *with* Pet. GSSI App. W, at 198a, ¶ 3B;

Pet. GSSI App. X, at 200a ¶ 3E. *Compare also* State App. E, at 24a through State App. U, at 75a *with* State App. V, at 76a through State App. CC, at 117a. LTV was the beneficiary of the delay. *Compare* Pet. GSSI App. A, at 23a *with Rufo*, 112 S. Ct. at 758 (consent decrees may not be modified unless there are "changes in *circumstances that were beyond the defendants' control and were not contemplated by the court or the parties when the decree was entered.*"). *See* Pet. GSSI App. S, at 164a, ¶ 21.

It should also be noted that these were not environmental liabilities GSSI voluntarily assumed. Indeed, GSSI had to be compelled by the State to achieve environmental compliance at the Gadsden plant. *See* State App. V, at 76a through State App. CC, at 117a. GSSI was then left to pursue LTV to recover the expenses made.[4] The State could have brought an enforcement action against LTV prior to the divestiture to compel environmental compliance, but this would clearly have delayed the divestiture, and "threatened the continued operation (or sale) of the plant." *See* State App. S, at 68a; Pet. GSSI App. B, at 36a-37a. Instead, the State allowed the divestiture to proceed and decided to seek enforcement only if LTV did not live up to its obligations. LTV has not done so and for that reason the State initiated its April 1, 1991 enforcement action in the District Court and now files as an *amicus curiae* in support of GSSI's October 26, 1991 Petition for a Writ of Certiorari regarding the District Court's award of $19,590,000 from the escrow funds.[5]

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[4] This is analogous to how response costs are incurred and paid by a "potentially responsible party," under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9607 (1988). *See e.g., In re Chateaugay Corp.*, 944 F2d 997,999-1000 (2d Cir. 1991).The State takes no position, however, regarding the $9,000,000 amount claimed by GSSI for benzene control since those monies were expended to comply with enforcement letters from EPA's Regional Office, rather than ADEM.

[5] ADEM enforcement records admitted into evidence below and the July 31, 1991 ADEM affidavits support the District Court's award of

B. THE ESCROW DEPOSIT MONIES SHOULD BE RESTORED TO THE CONTROL OF THE DISTRICT COURT TO ENSURE LTV'S COMPLIANCE WITH THE FINAL JUDGMENT.

There is no question that the Court of Appeals' June 12, 1992 decision and August 4, 1992 mandate, modified the August 2, 1984 Final Judgment *de facto* by releasing to LTV the $31 million GSSI deposited into an escrow and made subject to the control of the District Court. *See* Pet. App. G, at 62a. Surely the Court of Appeals realized that these funds represented the most immediate, and perhaps only, means by which LTV can be compelled to assume its environmental liabilities at the Gadsden plant, given LTV's bankruptcy. *See* Pet. GSSI App. A, at 27a.

If the Court of Appeals had adhered to Fed. R. Civ. P. 60(b) the issue of whether there was a significant change in fact or law to warrant such a release would have been before the Court. *See Rufo*, 112 S. Ct. at 758. LTV, however, could not have met that burden. LTV could not have cloaked itself in the protection of the bankruptcy laws, as LTV agreed to exempt to its pre-existing obligations to the State to retain and assume *pre-divestiture* environmental liabilities at the Gadsden plant from modification based on hardship. *See* GSSI App. I, at 93a.

Moreover, since the District Court's December 5, 1991 Order determined only that LTV was required to retain and assume certain environmental liabilities at the Gadsden plant which GSSI sought to recoup from the escrow deposit, the District Court did not reach, nor was it asked to determine, whether there were other environmental liabilities that LTV was required to retain and assume at the Gadsden plant, that were not sought by GSSI in this

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$19,590,000 to GSSI for water treatment and corrections to the Coke plant and BOF facilities at the Gadsden plant. *See e.g.*, State App. E, at 24a through State App. U, at 74a; Pet. GSSI App. W, at 198a; Pet. GSSI App. X, at 199a.

proceeding — such as solid waste disposal, as admitted by LTV in 1985, *compare* Pet. GSSI App. R, at 146a and State App. A, at 1a *with* State App. B, at 3a; other water treatment facilities and BOF corrections, which the State compelled GSSI to correct after the August 26, 1991 hearing, *see* State App. C, at 8a; State App. D, at 15a or other State enforcement actions that may be required prior to August 2, 1994, when the August 2, 1984 Final Judgment expires, such as potential underground environmental claims which may in fact be LTV's responsibility. By prematurely releasing the escrow deposit funds, the Court of Appeals modified the August 2, 1984 Final Judgment *de facto* by allowing LTV to evade these liabilities, and leaving them to be borne either by GSSI or the taxpayers.

Thus, this Court should grant GSSI's Petition for a Writ of Certiorari to review whether the Court of Appeals' release of the escrow funds to LTV, prior to a determination being made that LTV has assumed all environmental liabilities required under the August 2, 1984 Final Judgment, modified the Final Judgment *de facto* without compliance with the procedural and substantive requirements of Fed. R. Civ. P. 60(b) and this Court's *Rufo* decision. This Court should issue a writ of certiorari to restore the escrow deposit monies to the control of the District Court pending this Court's review of this case and until *all* of LTV's environmental liabilities under the August 2, 1984 Final Judgment are determined.[6]

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[6] Environmental trust funds have been authorized to permit district courts to enforce obligations assumed under consent decrees. *See generally, Sierra Club, Inc. v. Electronic Controls Design, Inc.*, 909 F.2d 1350, 1355 (9th Cir. 1990); *Friends of the Earth v. Eastman Kodak Co.*, 656 F. Supp. 513 (W.D.N.Y.), *aff'd.*, 834 F.2d 295 (2d Cir. 1987); and *United States v. Vertac Chemical Corp.*, 756 F. Supp. 1215 (E.D. Ark. 1991), *aff'd*, 961 F.2d 796 (8th Cir. 1992). Since the escrow deposit continues to accumulate market interest, LTV's financial interests are protected until a final determination is made.

IV. CONCLUSION

Nothing less than the integrity of the antitrust consent decree process is at stake in this case. The citizens of Alabama look to this Court to ensure that LTV is made to assume environmental liabilities at the Gadsden plant, as required by the August 2, 1984 Final Judgment and the District Court's implementing orders and to make clear that the requirements of this Court's *Rufo* decision with regard to Fed. R. Civ. P. 60 (b) also applies to civil antitrust consent decrees, particularly since many of these governmental decrees are subject to review by the Court of Appeals for the District of Columbia Circuit.

For the reasons set forth above, this Court should grant GSSI's October 26, 1991 Petition for a Writ of Certiorari to review and reverse the June 12, 1992 decision and August 4, 1992 mandate of that court.

Respectfully submitted,

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APPENDIX A

LTV Steel
Departmental Correspondence

Subject: See Below Date: January 18, 1985

To: No: 0297a

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J.M. Carroll	D.C. Imel	S.S. Sephton
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R.V. Culp	J. R. Kosko	L.B. Smith
J.D. Donohoe	L.E. Larson	E.M. Stewart
B.J. Fedak	A. McDonald	D.H. Wakelin
J.R. Fulton	O.J. Mantenieks	W.L. West
M.A. Gipko	D.H. Miller	M.S. Wilcox
W.A. Goodwin	S. Muryn	F.R. Winn
P.J. Grandy	D.G. Nemec	D.E. Winston
S.A. Green	R.L. Nemeth	L.D. Wisniewski
R.M. Hanna	H.L. Page	D.A. Woodring
S. Hansen	D.E. Papajcik	T.A. Zalenski
	J.M. Potwora	R.V. Zavoda

Subject: Hazardous and Solid Waste Amendments of 1984
Summary of New Law and Potential Impacts on
LTV Steel Company

Enclosed for your information is a copy of a Summary of the RCRA Amendments as passed by Congress and signed by President Reagan on November 8, 1984. The summary was prepared by the law firm of Collier, Shannon, Rill and Scott.

The amendments require that USEPA take specific action in rulemaking within definite time frames. There are many such

"hammer" provisions imposed on USEPA to ensure that stringent restrictions as set forth in the amendments take effect "automatically" should USEPA fail to develop the necessary rulemaking provisions.

It is extremely difficult to predict the full impact of these new laws until the agency publishes their interpretation in rulemaking fashion. However, it is now anticipated that the regulations will have a very significant impact on LTV Steel Company's handling and disposal practices regarding primarily hazardous wastes. Unfortunately, the costs associated with the handling and disposal of these wastes traditionally generated from the making and finishing of steel are also most likely to increase. Most of these increased costs will be passed on by vendors providing services for the handling and ...

APPENDIX B

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF:

GULF STATES STEEL, INC.
174 South 26th Street
Gadsden, Alabama 35904
EPA ID. NO. AID 004014973

ORDER NO. 92-082-HW

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§22-22A-1 through 22-22A-16 (1990 Replacement Vol.), the Alabama Hazardous Wastes Management and Minimization Act of 1978, Ala. Code §§22-30-1 through 22-30-20 (1990 Replacement Vol.), the Alabama Department of Environmental Management, ("the Department") makes the following FINDINGS:

1. Gulf States Steel, Inc. (hereinafter "Gulf States") operates an integrated steel making facility located in Gadsden, Alabama.

2. On December 6, 1990, the Department promulgated the Method 1311 Toxicity Characteristic Leaching Procedure (TCLP) and ADEM Admin Code R. 335-14-2-.03(5) which is the procedure and regulation for determining whether a solid waste exhibits the characteristic for toxicity and is therefore a hazardous waste.

3. Gulf States generates, at its Gadsden facility, D018 (Benzene) hazardous waste pursuant to ADEM Admin Code R. 335-14-2-.03(5) and is managed in a hazardous waste unit.

4. ADEM Admin. Code R. 335-14-8-.07(4)(d) states:

> ...Interim status for each land treatment, storage, or disposal facility which is in existence on the effective date of statutory or regulatory amendments under the AHWMMA that render the facility subject to the requirement to have an AHWMMA permit will be terminated twelve months after the date on which the facility first becomes subject to such permit requirement unless:...
>
> ....2. The owner or operator certified, on or before the date twelve months after the date on which the facility first becomes subject to such permit requirement, that such facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements ....

5. Gulf States failed to provide the Department with certification that it had complied with the financial responsibility requirements of ADEM Admin. Code R. 335-14-6-.08 on or before December 6, 1991 thereby losing its interim status classification pursuant to the requirements of 335-14-8-.07(4)(d)2.

6. A review of the Financial Assurance test submitted by Gulf States revealed that it did not meet the requirements of ADEM Admin. Code R. 335-14-6-.08(4)(e)1(i)I and 335-14-6-.08(6)(e)1(i)(I) in that Gulf States failed to meet any two of the three requirements to assure compliance with this regulation.

ORDER

Based on the foregoing FINDINGS and pursuant to Ala. Code §§22-22A-5(10), 22-22A-5(18), 22-30-20 and 22-30-19(a) and (b) (1990 Replacement Vol.), it is hereby ORDERED:

A. That not later than 30 days from notice of receipt of this Order, Gulf States shall submit to the Department proof of adequate financial assurance for all closure and post-closure activities that meets the requirements of ADEM Admin. Code R. 335-14-6-.08. That not later than 30 days from notice of

receipt of this Order, Gulf States shall submit to the Department proof of adequate sudden and non-sudden liability coverage for the regulated unit. In the event that Gulf States cannot comply with the timeframe described above, Gulf States shall provide the Department with proof that reasonable steps have been taken to obtain the required coverage and/or financial assurance. The Department may extend such timeframe in writing upon receipt of a written request therefor, by Gulf States. Such written request for an extension shall be submitted to the Department in advance of the above mentioned deadline. In the event that Gulf States cannot obtain non-sudden liability coverage within 30 days of the receipt of notice of this Order, Gulf States shall submit a status report, to the Department, once every 30 days, thereafter, describing the steps that have been taken and are being taken to obtain the required coverage.

B. Prior to June 1, 1992, Gulf States shall cease managing hazardous waste in the regulated unit. The Department may, in writing, extend such timeframe. Such request shall be in writing and received by the Department prior to above mentioned deadline.

C. That not later than 180 days after receipt of notice of the Department's approval of Gulf State's closure plan, Gulf States shall have completed closure activities of all hazardous waste management units in accordance with the approved Closure Plan and the requirements of ADEM Admin. Code R. 335-14-6-.06(4). As part of its closure activities, Gulf States shall determine if the hazardous waste unit has impacted the groundwater beneath its facility.

D. That in the event that the Department or Gulf States determines that all hazardous waste or hazardous constituents cannot be removed from any on-site hazardous waste management unit, Gulf States shall comply with the requirements of ADEM Admin. Code Chap. 335-14-6 and 335-14-8 and shall submit to the Department within 180 days of such determination

a complete post closure permit application, including a groundwater corrective action plan, and all applicable permit fees in accordance with the requirements of ADEM Admin. Code. R. 335-14-8-.01(1)(c) and 335-1-6-.04 and ADEM Admin. Code Rules 335-14-8-.02.

E. That not later than 30 days from receipt of notice of this Order, Gulf States shall pay a civil penalty to the Department in the amount of $46,000.00.

F. That the failure to comply fully with the terms and conditions of this Order shall constitute cause for the commencement of legal action for the recovery of civil penalties, criminal fines, or other appropriate relief by the Department against Gulf States.

G. That the issuance of this Order does not preclude the Department from seeking criminal fines or other appropriate relief against Gulf States for the violations stated herein.

ORDERED and ISSUED this 6th day of April, 1992.

/s/
Leigh Pegues, Director
Alabama Department of
Environmental Management
1751 Cong. W.L. Dickinson Drive
Montgomery, Alabama 36130
(205) 271-7700

CERTIFICATE OF SERVICE

I, James G. Stevens, hereby certify that I have served the foregoing proposed Administrative Order, Order No. 92-082-HW upon Gulf States Steel Inc., by sending the same postage paid, through the U.S. Mail, as Certified Mail No. P 825 089 250, with instructions to forward and return receipt requested to:

Mr. Buster Stewart
Gulf States Steel, Inc.
174 South 26th Street
Gadsden, Alabama 35904

DONE this 6th day of April, 1992.

/s/
James G. Stevens

APPENDIX C

IN THE CIRCUIT COURT FOR ETOWAH COUNTY, ALABAMA

STATE OF ALABAMA,

Plaintiff,

vs.

GULF STATES STEEL, INC.,

Defendant.

CIVIL ACTION NO.
CV91-242-WWC

CONSENT DECREE

WHEREAS, the parties to the action are the Attorney General, for and on behalf of the State of Alabama, and all its agencies, boards, departments and subdivisions, as Plaintiff and Gulf States Steel, Inc., a corporation, as Defendant; and

WHEREAS, Defendant, Gulf States Steel, Inc., ("GSSI") operates an integrated steelmaking facility in Etowah County, Alabama; and

WHEREAS, GSSI has a permit authorizing discharge into the waters of Alabama, issued by the Alabama Department of Environmental Management ("ADEM") on December 4, 1987 pursuant to the National Pollution Discharge Elimination System ("NPDES") and the Alabama Water Pollution Control Act, Ala. Code §22-22-1 through §22-22-14, subject to certain terms and effluent limitations as more fully set forth in the permit (NPDES Permit No. ALD 0055239); and

WHEREAS, ADEM, in certain administrative actions, and plaintiff, State of Alabama, herein, have alleged violations of the effluent limitations contained in GSSI's NPDES permit; and

WHEREAS, under Ala. Code §22-22A-5(18)b, the Attorney General or ADEM may bring a civil action to enforce the provisions of the Act and recover monies for violations of an NPDES permit; and

WHEREAS, plaintiff, on behalf of the State of Alabama, and all its agencies, boards, departments, and subdivisions, and defendant, GSSI, by their respective attorneys, have agreed that settlement of this matter is in the public interest and that entry of this Consent Decree without further litigation is the most appropriate means of resolving all matters of dispute between the parties regarding any and all alleged violations of NPDES Permit ALD0055239; and,

WHEREAS, by entering this Consent Decree, GSSI makes no admission of law or fact, and the parties agree that neither the fact that this Consent Decree has been entered nor any of its terms shall be admissible in any subsequent proceeding, except for a proceeding to enforce the terms hereof;

NOW THEREFORE, before the taking of any testimony, upon the pleadings, without adjudication of any issues of law or fact herein, and without any admission of violation of law or regulation, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

I.
JURISDICTION

This Court has jurisdiction of the parties and the subject matter pursuant to Ala. Code §§22-22-9(m) and 22-22A-5(18)b.

II.
AUTHORIZED REPRESENTATIVES

Each of the undersigned representatives for each party certifies that he or she is fully authorized by the party whom he or she represents to enter into the terms and conditions of this Decree and legally bind them to it.

III.
PARTIES BOUND

The provisions of this Decree are binding upon the State of Alabama, its agents, officials, and employees and all of its agencies, boards, departments and subdivisions and upon GSSI, and its corporate parent, successors and assigns.

IV.
COMPLIANCE DATE

GSSI shall be in full compliance with the effluent limitations of its NPDES permit no later than October 31, 1992, which shall be referred to as the "Compliance Date."

V.
ENVIRONMENTAL PROJECTS

In addition to the modifications required to meet the Compliance Date Defendant GSSI agrees to perform the following environmental projects, not otherwise required to be accomplished:

A. Barometric Condensers. GSSI will replace the barometric condensers at the by-products coke plant with non-contract type condensers, thereby eliminating a pollutant stream of contact water, on the following schedule:

1. Complete engineering - March 20, 1992
2. Begin installation - March 23, 1992
3. Complete installation - September 30, 1992

B. Lagoon Aeration. To increase the dissolved oxygen concentration of GSSI's final effluent, GSSI will aerate its final water lagoon on the following schedule:

1. Complete engineering - May 29, 1992
2. Begin installation - July 20, 1992
3. Complete installation - August 28, 1992

C. Costs and Environmental Benefit. It is estimated by the parties that the cost of the projects listed above will be $1,005,000.00, and that such projects will confer an environmental benefit over and above what is currently required.

VI.
COSTS OF LITIGATION

The Defendant GSSI shall pay costs of litigation in the amount of One Hundred Eighty Thousand ($180,000.00) to the Attorney General's Office. Payment of the costs shall be made within thirty (30) days of the Court's entry of this Decree, and shall be made by certified check payable to the office of the Attorney General for deposit into said office's operating fund and made immediately available to said office for its general law enforcement purposes.

VII.
RELEASE

In consideration of the understanding and completion of the environmental projects described in Section V, the State of Alabama, and all its agencies, boards, departments and subdivisions, agrees that any and all actions, causes of action, claims, rights, demands and requests for damages or other orders of any type whatsoever against GSSI regarding NPDES Permit No. ALD 0055239, including, but not limited to, those asserted or which could have been asserted in this action are satisfied, discharged and settled, and the State of Alabama, and all its agencies, boards, departments and subdivisions, hereby releases, acquits and forever discharges GSSI, its shareholders, directors, officers, agents, employees, representatives, attorneys, successors and assigns from any and all liability for claims asserted or capable of assertion in this action. Provided, however, that nothing in this consent decree precludes the Attorney General from seeking injunctive relief against GSSI in order to protect the health and safety of the citizens of Alabama.

Provided, further, that nothing in this consent decree shall be interpreted as a release of GSSI or any of its directors, officers, agents, or employees from criminal liability for any act or acts occurring before or after the date of this consent decree, or as preventing in any way the Attorney General or the State of Alabama from prosecuting for any such criminal acts. Furthermore, in consideration of the compliance date set forth herein and the agreement by GSSI to continue to use its best efforts prior to the compliance date to reduce effluent discharges in excess of the effluent limitations set forth in its NPDES permit, the State of Alabama, and all its agencies, boards, departments and subdivisions, hereby covenants not to sue, or otherwise penalize, or issue orders to, GSSI for any exceedances of its permitted effluent limitations that may occur prior to the Compliance Date.

VIII.
NOTICE REQUIREMENTS

Whenever, under the terms of this Consent Decree, notice is required to be given, the communication shall be delivered, by certified mail, or with a reputable delivery service, to the parties' representatives at the addresses listed below:

R. Craig Kneisel
Assistant Attorney General
Attorney General's Office
11 South Union Street
Montgomery, Alabama 36130

H. Thomas Wells, Jr.
Maynard, Cooper, Frierson
& Gale, P.C.
1901 6th Avenue, North
2400 AmSouth/Harbert Plaza
Birmingham, Alabama 35203

IV.
EFFECTIVE DATE

This Decree shall become effective upon approval by the parties and ratification and adoption by the Court.

CONSENTED TO:

FOR THE STATE OF ALABAMA

/s/
JAMES H. EVANS
ATTORNEY GENERAL

/s/
R. CRAIG KNEISEL
ASSISTANT ATTORNEY GENERAL

/s/
WILLIAM D. LITTLE
ASSISTANT ATTORNEY GENERAL

Attorney General's Office
11 South Union Street
Montgomery, Alabama 36130

FOR GULF STATES STEEL, INC.

/s/
H. Thomas Wells, Jr.
Maynard Cooper, Frierson & Gale
1901 Sixth Avenue, North
2400 AmSouth/Harbert Plaza
Birmingham, Alabama 35203

Costs of this Action are taxed to Defendant.

RATIFIED, ADOPTED, AND DONE this 23rd day of March, 1992.

/s/
William W. Cardwell, Jr.
Circuit Judge

APPENDIX D

IN THE CIRCUIT COURT OF ETOWAH COUNTY, ALABAMA

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT,

Plaintiff,

v.

GSSI, INC. d/b/a GULF STATES STEEL, INC., a wholly owned subsidiary of the Brenlin Corporation,

Defendant.

CIVIL ACTION NO.
CV 88-856-JSS

CONSENT ORDER

The parties to this Consent Order are the Plaintiff, Alabama Department of Environmental Management (hereinafter "the Department"), and the Defendant GSSI, Inc., doing business as Gulf States Steel, Inc. (hereinafter "Gulf States"), an Alabama corporation and a wholly owned subsidiary of the Brenlin Corporation.

This Consent Order shall apply to the claims of the Department against Gulf States for any of the acts complained of by the Department in its Motion to Enforce Consent Order.

Gulf States has denied the allegations presented in the Department's Motion to Enforce. Nevertheless, Gulf States has agreed to the terms of this Consent Order in order to satisfy any liability relating to the acts complained of by the Department in its Motion to Enforce and to avoid the expense, inconvenience, and distraction of protracted litigation.

The Department has agreed to the terms of this Consent Order in order to terminate the controversy with Gulf States regarding the allegations in its Motion to Enforce Consent Order

and the Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

Therefore, the parties having filed a joint motion for Entry of a Consent Order and good cause appearing, it is hereby ORDERED, ADJUDGED, AND DECREED:

ARTICLE ONE

That with regard to emissions from the Basic Oxygen Furnace (BOF) vessels, Gulf States Steel is ordered to comply with the following schedule:

1. That effective immediately, and not later than 10 days after issuance of this Order, the No. 2 Basic Oxygen Furnace (BOF) vessel shall cease operation for the purpose of Gulf States Steel installing moisture control sprays on the primary emission control system of the melt shop. All new gas conditioning equipment (moisture control sprays) and repairs to the system must be installed and completed prior to the vessel being operated again.

2. That effective immediately, and not later than 10 days after issuance of this Order, Gulf States shall cease operation of the No. 1 BOF vessel for the purpose of installing moisture control sprays. All new gas conditioning equipment (moisture control sprays) and repairs to the system must be installed and completed prior to the vessel being operated again.

3. That Gulf States Steel shall maintain and operate the gas conditioning equipment on the hoods of both vessels in a manner which minimizes the emissions of particulate matter from the BOF ESP.

4. That Gulf States shall construct an ESP which will operate in parallel with the existing ESP in controlling the particulate matter emissions from BOF vessels and that the

emissions from both parallel ESPs will emanate from a single stack.

5. That the BOF shall be in full compliance no later than January 1, 1993.

6. That stipulated penalties for any violations occurring from the BOF after January 1, 1993 shall be due in accordance with Article IV of this Consent Order for a period of 180 operating days of the BOF vessels.

ARTICLE TWO

That with regard to emissions from the Basic Oxygen Furnace Building (BOFB) monovent, Gulf States Steel is required to comply with the following schedule:

1. No later than 10 days after issuance of this Order, Gulf States will complete the engineering for the installation of a baghouse for the ancillary sources in the BOFB.

2. Construction of the baghouse to the ancillary sources in the BOFB will be completed by December 31, 1992.

3. The baghouse will be in operation no later than January 1, 1993.

4. The emissions from the baghouse shall not exceed an opacity of 5% based on a six (6) minute rolling average or have emissions exceeding 0.04 grains per dry standard cubic foot.

5. Gulf States Steel shall submit permit applications for the baghouse no later than 60 days after this Consent Order has been executed.

6. The BOFB monovent will be in full compliance (with Paragraph 4 of this Article) no later than January 1, 1993.

7. Stipulated penalties for the BOFB monovent for any violations occurring after January 1, 1993 shall be in accordance with the provisions of Article IV of this Consent Order for a period of 180 operating days of the BOFB monovent.

ARTICLE THREE

1. That Gulf States Steel shall pay within ten (10) days of the issuance of this Order a penalty in the amount of $250,000.00 for all violations of the ADEM Admin. Code 335-3 cited in attached Appendix A which is incorporated as if fully set out herein.

2. That in addition to the aforementioned penalty for past violations, Gulf States Steel shall construct and operate a baghouse to control fugitive emissions from the coke shaker screens at the blast furnace. Emissions from the baghouse shall not exceed an opacity of 5% based on a six (6) minute rolling average or have emissions exceeding 0.04 grains per dry standard cubic foot. That Gulf States Steel shall submit permit applications no later than 30 days after this Consent Decree is executed and operation of the baghouse must begin within 180 days after the Consent Order is executed.

3. That said penalty fully relieves Gulf States Steel from the imposition of any other sanction by the Department with respect to the violations of the ADEM Admin. Code 335-3 cited in attached Appendix A.

ARTICLE FOUR

That if Gulf States Steel shall fail to comply with the terms of Article One, paragraph 5 or Article Two, paragraph 6 of this Consent Order, it shall pay to the Department stipulated penalties as follows:

> One thousand dollars ($1,000.00) for the first violation of any specified paragraph and amounts increasing in One Thousand Dollar ($1,000.00) increments for each subsequent violation for the first one hundred and eighty (180) operating days of the source. For violations occurring after one hundred and eighty (180) operating days or other just cause, the Department may apply to the court for such other relief that

may be appropriate or elect to exercise any other available enforcement measures, including administrative enforcement measures. Violations of the compliance dates may be documented by inspections of the Department personnel, EPA and/or the independent certified visible emissions observer provided for in Article Five, paragraph 2.

ARTICLE FIVE

1. That by the 10th of every month, Gulf States Steel shall submit to the Department a report which specifies the progress it has made regarding all the scheduled activities detailed in this Consent Order and record any and all problems which were identified and corrected during the previous month which related to air pollution and the applicable regulations governing air pollution control in Alabama.

2. That Gulf States Steel shall hire a Department approved independent certified visible emissions observer to conduct visible emissions evaluations which shall be performed at random. Each week, two hours of visible emissions evaluations shall be conducted on each source subject to this consent order during operation of the source; i.e, ESP stack and the monovent after each source's applicable compliance date.

3. That an independent consultant competent with EPA Method Testing and approved by the Department shall conduct a mass emissions test on the ESP, once a month for a period beginning on the compliance date for the BOF and ending 180 operating days after the compliance date. Furthermore, during each mass emission test, an independent certified observer shall conduct a visible emission evaluation on the ESP, which shall be in addition to the aforementioned weekly visible emission evaluation.

4. That more than one violation per day on each source may be documented and stipulated penalties apply.

5. Furthermore, that said weekly visible emissions evaluation tests shall be made without any advanced notice to Gulf States Steel and the results of the visible emissions observations and the mass emissions tests as described in Paragraph 3 of this Article shall be reported directly to the Department by the independent observer and/or the independent mass emissions test consultant by the 10th of every month.

6. That it is further understood that Gulf States Steel will not be liable for violations of the opacity limits of the ESP that occur during the mass emissions test if the ESP complies with the mass emissions limits.

ARTICLE SIX

That if any event occurs which causes delays in the achievement of compliance or of any compliance schedule for controlling emissions or maintenance of compliance at Gulf States Steel's facility called for in this Order, Gulf States Steel shall as soon as possible, but no later than fifteen (15) days after the occurrence, notify in writing the Director of the Alabama Department of Environmental Management, describing in detail the length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Gulf States Steel to prevent or minimize the delay, and the timetable by which those measures will be implemented. Gulf States Steel shall employ all reasonable measures to avoid or minimize any such delay. If any delays are caused solely by circumstances entirely beyond the control of the owners or operators of Gulf States Steel's facility or of any entity controlling, controlled by, or under common control with the owners and operators, the time for compliance or for performance of the appropriate compliance schedules will be extended by the Director for a period equal to such delay resulting from such circumstances. The burden of proving that the delay is caused by circumstances entirely beyond the control of the owners and operators of the facility shall rest with Gulf States Steel.

ARTICLE SEVEN

1. That any penalty due under Article Four of this Consent Order shall be paid to the Alabama Department of Environmental Management within twenty (20) days of receipt by Gulf States Steel of written notification by the Department of penalties due under said article, unless contested by Gulf States Steel. If Gulf States Steel contests the fact of a violation as alleged by the Department, Gulf States Steel shall, within twenty (20) days of receipt of notice of the violation, file a Notice of Contest with the Court, which shall thereafter decide the contest.

2. That this Court shall maintain jurisdiction over each source that is the subject of this Consent Order to ensure that the terms of this Consent Order are complied with and to resolve all disputes which may arise out of this Consent Order. However, after the time period of applicability of stipulated penalties for each source has expired, the Department may elect to institute any available enforcement measures, including administrative enforcement measures, to remedy any future violations of the ADEM Admin. Code 335-3 by the sources covered and discussed in this Consent Order.

3. That any assigns and successors of Gulf States Steel, Inc., GSSI, Inc., or the Brenlin Corporation shall be liable and held accountable under the terms of this Consent Order without limitation.

DONE and ORDERED on this the 17th day of December, 1991.

/s/
Circuit Judge

- APPENDIX A -

A. During inspection of the No. 3 Coke Battery, the Alabama Department of Environmental Management identified violations of ADEM Admin. Code R. 335-3-4-.09(8) on the following dates:

July 27, 1989	October 24, 2989
November 21, 1989	November 29, 1989
December 6, 1989	January 10, 1990
May 18, 1990	May 30, 1990
August 17, 1990	

B. During an inspection of the No. 3. Coke Battery and the pushing process on December 1, 1989, the Alabama Department of Environmental Management identified a violation of ADEM Admin. Code R. 335-3-4-.09(4)(a).

C. During an inspection of the No. 2 Coke Battery on February 23, 1990, the Alabama Department of Environmental Management identified a violation of ADEM Admin. Code R. 335-3-4-.09(8).

D. During inspection of the Basic Oxygen Furnace ESP, the Alabama Department of Environmental Management identified violations of ADEM Admin. Code R. 335-3-4-.01(1) on the following dates:

January 25, 1989	March 24, 1989
April 18, 1989	April 26, 1989
September 15, 1989	October 5, 1989
October 24, 1989	November 1, 1989
November 14, 1989	November 21, 1989
November 29, 1989	December 6, 1989
December 13, 1989	December 27, 1989
January 1, 1990	February 12, 1990
April 2, 1990	May 18, 1990
June 18, 1990	July 19, 1990
August 17, 1990	October 10, 1990

December 26, 1990 July 15, 1991
July 30, 1991

E. During inspection of the Basic Oxygen Furnace Building monovent, the Alabama Department of Environmental Management identified violations of ADEM Admin. Code R. 335-3-4-.17(1) on the following dates:

September 20, 1989	October 5, 1989
October 31, 1989	November 1, 1989
November 14, 1989	November 21, 1989
November 29, 1989	December 13, 1989
December 27, 1989	January 1, 1990
August 14, 1990	December 26, 1990
February 8, 1991	February 26, 1991

APPENDIX E

Alabama Department of Environmental Management

August 29, 1984

Mr. K.E. Hamby
Chief Engineer
LTV Steel Company
174 South 26th Street
Gadsden, AL 35901

RE: Facility No. 307-0008

Dear Mr. Hamby:

On August 15, 1984, Mr. John Hughes and Mr. Guy Brown of the Air Division staff inspected the coke battery operations at the Gadsden facility.

A visible emission evaluation of the #2 and #3 flue stacks showed that neither were meeting the requirements of the Alabama Department of Environmental Management, Air Division Rules and Regulations, Section 4.9.8. Visible emissions were greater than 20% opacity for a period greater than 3 minutes in an hour.

Please explain the cause of said emissions and what actions will be taken to correct these conditions. Written response should be received by September 14, 1984.

Concerning the high number of standpipe lid leaks found on Battery #3 during the above inspection, this appears to be a maintenance problem correctable by proper supervision. It is not the responsibility of these inspectors to point out those conditions in order to have them corrected.

If there are any questions or clarification of the above is needed, please contact this office at 205/271-7861 in Montgomery.

Sincerely,

/s/
Richard E. Grusnick, Chief
Air Division

REG/JTH:sd

APPENDIX F

Alabama Department of Environmental Management

September 25, 1984

MEMORANDUM

TO: Files
FROM: Ron Gore
SUBJECT: Meeting of September 21, 1984 with LTV Steel of Gadsden

Richard Grusnick, Sue Robertson, and I met with Bill West, Buster Stewart, Ed Hamby, and Marylou Smith of LTV Steel. The primary purpose of the meeting was to discuss problems with the Nos. 2 and 3 coke batteries.

Bill West began by stating that the No. 2 battery was so far past its useful life that no repairs could be made which would bring the flue stack into compliance. He mentioned that some measures, such as dusting with silicon dust for closing cracks, could be tried but that these were stopgap. He inquired about available enforcement mechanisms which would enable the No. 2 battery to operate until some agreed upon closure date. Richard Grusnick mentioned EPA's "limited life facility" policy and the fact that this policy severely limits options on such facilities. Mr. Grusnick said that any consent agreement or similar enforcement mechanism for battery No. 2 would require interim control measures, a firm date for closure with a surety bond, and possibly penalties. Mr. Hamby and Mr. West discussed the coke shortages within LTV Steel and the loss of coke oven gas that could result from a shutdown of battery No. 2.

Mr. West further delved into the issue of the "limited life facility." He stated that the policy allows for violating sources

to continue operation if a replacement facility is under construction. He wondered whether work scheduled on the No. 3 battery to bring it up to its designed pushing rate could be considered as a "replacement facility." Mr. Hamby stated that maintenance such as cleaning regenerators, flues and code side air boxes would be performed to bring its production rate up from about 55 pushes per day (37 hour coke). Battery No. 3 is to be inspected thoroughly next week to evaluate necessary work.

Bill West stated that they felt the No. 3 flue stack was in compliance. Richard Grusnick indicated that we would make an inspection within the next week to verify compliance.

Richard Grusnick then mentioned the EPA-State enforcement agreement for FY 85 and the enforcement timetable it contains. The LTV representatives agreed to send by November 1, 1984 a letter describing their plans for the coke batteries.

The next topic was opacity problems from the BOF precipitator. Mr. Grusnick stated that a letter would be sent requiring a stack test by the end of October, in view of the fact that it has not been tested since 1980. Mr. Hamby mentioned labor problems and lack of maintenance as reasons for the poor ESP performance. He said that LTV was considering a complete internal rebuild of this 1965 vintage ESP. Ms. Robertson emphasized malfunction reporting requirements for this unit, as we had not received any calls from LTV on such incidents.

The differing EPA and Alabama interpretations of the applicability of 4.1.1 opacity standards to casthouse and BOF shop monovent emissions were discussed. LTV was told that an opacity limit with an averaging time needs to be adopted to insure that the BOF shop monovent emissions are minimized by proper Gaw plate and furnace operation. Ms. Robertson stated that she believes that we have performed enough opacity readings to support a rolling three minute average of 20%. However, LTV wants to perform its own evaluation and agreed to comment on this in its November 1, 1984 letter on the coke batteries.

In discussing the sale of the plant, Bill West indicated that Republic had until December 1, 1984 to sell the plant. Then the court appointed trustee would have until May 1, 1985, to see the plant. After May 1, 1985, it is unclear what will happen to the plant.

RWG:sd
cc: John Hughes

APPENDIX G

Alabama Department of Environmental Management

September 25, 1984

Mr. K.E. Hambey
Chief Engineer
LTV Steel Company
174 South 26th Street
Gadsden, AL 35901

Dear Mr. Hambey:

The following is a summary of the topics discussed in our meeting of September 20, 1984 as well as the dates by which Republic will submit certain information to the Department:

Coke Battery No. 2 Flue Stack

Republic Steel will submit by November 1, 1984 a plan addressing the mechanism and schedule that will be utilized to return the flue stack to compliance with Section 4.9.8 of the Department's air regulations.

Coke Battery No. 3 Flue Stack

Republic indicated that any problems with the No. 3 stack have been corrected. Members of my staff will inspect your facilities in the near future to confirm compliance.

B.O.F. Precipitator Stack

During the inspection of August 28, 1984 visible emissions in excess of Section 4.1.1 of the Department's regulations were observed from the B.O.F. precipitator stack. In order to verify that the mass emissions are in compliance with Section 4.4.1, an emission test for particulate matter is to be conducted by

persons familiar with and using the EPA Sampling Train and Test Procedure as described in the *Code of Federal Regulations*, Title 40, Part 60, before October 31, 1984. The test report should be submitted to the Department prior to November 15, 1984.

The Department must be notified at least 10 days in advance of the emission tests. A pretest meeting may be held if Republic Steel so requests.

Redesignation to Attainment

It is the opinion of this Department that an opacity limit must be established for the B.O.F. monovent as part of the submittal to EPA to redesignate Etowah County as attainment. If Republic will not agree to a limitation as a permit condition, then another procedure such as a regulation change must be used.

It was indicated that Republic wished to conduct visible emission readings to supplement those conducted in the past. If such readings are conducted, the Department should be notified so that we can observe the operation of the furnace during part of the observation periods.

The decision on whether a regulation change is the procedure to be utilized in establishing an opacity limit should be made as soon as possible. Your response to this issue is required no later than November 1, 1984.

Name Change to LTV Steel Company

Please provide in writing the explanation given in the meeting as to why it is not necessary for LTV Steel Company to apply for Permits to Operate to be changed to their name. It should be indicated who is responsible for compliance with the environmental regulations at the Gadsden facility. This information is requested prior to October 15, 1984.

If clarification of the above is needed, please do not hesitate to contact me at 205/271-7861.

Sincerely,

/s/
Richard E. Grusnick, Chief
Air Division

REG/SR:um

APPENDIX H

Alabama Department of Environmental Management

October 16, 1984

Mr. Kenneth Mean
Chief Engineer
LTV Steel Company
174 South 26th Street
Gadsden, AL 35901

Dear Mr. Mean:

As was discussed in our meeting of September 21, 1984, and a subsequent letter to Mr. Ed Hamby confirming the results of that meeting, LTV is to submit to this Department by November 1, 1984, a plan for bringing the flue stack on Battery #2 into compliance with opacity standards as soon as possible.

However, since that meeting and letter, an inspection of your facility by John Hughes of my staff revealed that two other items regarding the coke batteries need mentioning. These items were brought to the attention of Mr. Hamby and Mr. Buster Stewart during Mr. Hughes' October 2, 1984, inspection. They are:

(1) The flue stacks on #3 battery violated opacity limits (23 ½ minutes greater than 20% compared to the standard of 3 minutes or less per hour).

(2) 25.4% of the doors on Battery #2 leaked, in violation of the allowed fifteen percent (15%).

In the reply to be submitted by LTV on the #2 flue stack by November 1, please add similar plans for returning the sources mentioned above into compliance.

If you have any questions, please call me at 205/271-7861 in Montgomery.

Sincerely,

/s/
Richard E. Grusnick, Chief
Air Division

REG/RWG:sd
cc: Mr. John Hughes

APPENDIX I

LTV Steel Company

October 31, 1984

Dr. Richard E. Grusnick
Chief, Air Division
Alabama Department of Environmental Management
1751 Federal Drive
Montgomery, Alabama 36130

Dear Dr. Grusnick:

In reply to ADEM's requests of August 29 and October 16, 1984 regarding the Gadsden coke plant, LTV Steel submits the following program to bring the facility into compliance with Alabama air standards.

Following ADEM's inspections of August 15 and October 2, 1984 it was determined that major capital must be spent on battery No. 2 in order to bring it into compliance with regard to the combustion stack and doors. It is proposed to begin two projects early in November, the repair of pushing side spalls and the regenerators, which would be completed by June 1, 1985. In addition, a year-round maintenance program would be started which would include an intensive patching program, an improved door-repair program and foam spraying of the doors. It is expected that initial patching on all ovens would be complete by mid-June, 1985, at which time a second go-around would begin. The other maintenance projects would continue on a year-round basis. (See Schedule 1, attached)

With respect to battery No. 3, a similar program of major repair and maintenance is proposed. The schedule is necessarily longer than that of No. 2 because of preliminary engineering, procurement and bidding that must precede the field work. A

contractor has been retained to conduct an inspection of the battery, which will begin the week of November 5, 1984. Following his inspection and issuance of a report, LTV Steel expects to proceed on the following repairs to the battery: gas gun flues will be repaired; the waste heat boxes will be replaced; and regenerator faces will be repaired. It is expected that these major projects can be completed by mid-November, 1985.

In addition to the above, a year-round maintenance program, similar to that proposed for battery No. 2, will be initiated. Patching and dusting of all ovens will begin early in November, with all ovens proposed to be covered by mid-June, 1985, at which time a second go-around will begin. LTV Steel also plans to increase door repairs on No. 3 battery and institute a foam-spraying program. (See Schedule 2, attached)

With regard to the BOF monovent, as you are aware, a stack test which will include visible emissions observations from the monovent, will be conducted on October 29. As you requested, the results of this test will be reported to you by November 15, 1984. At this time, LTV Steel will report to you as to what we feel are appropriate visible emission limitations.

If you have any questions regarding the program proposed above, please do not hesitate to call me.

Very truly yours

/s/
W.L. West
Director, Environmental Control

WLW:jc

0054a

bc: J.T. Bradford
W.L. Wiley
D.F. Brown
B.J. Fedak
D.H. Wakelin
M.L. Harmon
E.M. Stuart
J.N. Nichols
K.W. Means
J.D. Donohoe
T.A. Zalenski

APPENDIX J

Alabama Department of Environmental Management

January 14, 1985

Mr. William L. West, Director
Corporate Environmental Control Department
LTV Steel Company
3100 East 45th Street
Cleveland, OH 44127

Dear Mr. West:

According to your letter of October 31, 1984, a contractor was retained to perform an inspection on battery #3 and define the scope of work on this battery. A copy of this report should be forwarded to ADEM upon completion by the contractor. Was a report similar to the one for battery #3 developed for battery #2? If so, the report should also be submitted to ADEM. If a report for battery #2 was not developed, please explain why one was not developed.

The following information is also needed relative to the proposed program for batteries #2 and #3.

1. The proposals for both batteries #2 and #3 should contain more detailed descriptions, including man-power and necessary materials involved, of the proposed repairs.
2. A narrative relating the proposed repairs/maintenance of the batteries to expected reductions in emissions.

3. The field work portion of the schedule should include the number of ovens that will be completed on a bimonthly basis.
4. Please explain the difference between the scope of work on batteries #2 and #3.
5. What are the specific dates for compliance for the doors and flue stack for battery #2 and the battery #3 flue stack?

The BOF stack test submitted on November 13, 1984 has been reviewed by the staff. Enclosed is a copy of our evaluation sheet. All handwritten numbers above the printed numbers are taken from the Guardian report.

In response to Ms. Harmon's letter of November 29, 1985, an evaluation of the 3 minute running averages that occurred between beginning of charge and end of tapping indicates that all averages above 25% occurred during the oxygen blow or fluxing phase of the cycle. It is the opinion of the staff that these emissions should not be occurring at this level and can be corrected at minimal expense. Taking the above into consideration, it would appear that a 3 minute, 20% opacity level is appropriate.

In response to Ms. Harmon's statement regarding the "apparent conflict" with EPA's method 9, the Director of ADEM has the authority to specify test methods in accordance with Section 1.8.1 of the Department's air regulations.

I feel that another meeting between our staffs would be beneficial in resolving these issues. I suggest January 28, 29, or 30 as good dates. The above information should be submitted by January 28, 1985 even if we cannot meet during this time frame.

Please contact Sue Robertson or Ron Gore at 205/271-7861 to confirm a time for our meeting. If you have any questions regarding the above, please do not hesitate to call me.

Sincerely,

/s/
Richard E. Grusnick, Chief
Air Division

REG/SR:um

Enclosure

cc: Buster Stewart
John Hughes

APPENDIX K

Alabama Department of Environmental Management

January 14, 1985

Mr. William L. West, Director
Corporate Environmental Control Department
LTV Steel Company
3100 East 45th Street
Cleveland, OH 44127

Dear Mr. West:

According to your letter of October 31, 1984, a contractor was retained to perform an inspection on battery #3 and define the scope of work on this battery. A copy of this report should be forwarded to ADEM upon completion by the contractor. Was a report similar to the one for battery #3 developed for battery #2? If so, the report should also be submitted to ADEM. If a report for battery #2 was not developed, please explain why one was not developed.

The following information is also needed relative to the proposed program for batteries #2 and #3.

1. The proposals for both batteries #2 and #3 should contain more detailed descriptions, including man-power and necessary materials involved, of the proposed repairs.
2. A narrative relating the proposed repairs/maintenance of the batteries to expected reductions in emissions.
3. The field work portion of the schedule should include the number of ovens that will be completed on a bimonthly basis.

4. Please explain the difference between the scope of work on batteries #2 and #3.
5. What are the specific dates for compliance for the doors and flue stack for battery #2 and the battery #3 flue stack?

The BOF stack test submitted on November 13, 1984 has been reviewed by the staff. Enclosed is a copy of our evaluation sheet. All handwritten numbers above the printed numbers are taken from the Guardian report.

APPENDIX L

LTV Steel
Departmental Correspondence

Subject: Gulf States Steel — Date: January 29, 1985
No. 3 Battery Inspection

To: J.N. Nichols

Attached is the report of the No. 3 Battery Inspection which was conducted in November, 1984. The scope of the inspection included oven refractory, steelwork, doors, jambs, heating, offtake piping, and machinery.

Summary of Observations

Overall, the battery condition is good. There are, however, some conditions which require attention. Wall, roof, regenerator, and top refractories are generally good except for several notable areas of deterioration: coke side wall spalls, damaged gas gun block, and floor wear. Coke side spalls extend from two to four flues and some coke side wall movement was noted. Pusher side wall deterioration is generally limited to vertical cracks and ram rub marks within the first flue. Excessive carbon buildup is present at the oven wall/floor juncture and at the oven ends. The latter condition may contribute to improper support of the oven doors by the corbel brickwork which will cause the aforementioned gun block deterioration.

Supporting steelwork and jambs are in good condition. Door cleaning and repair frequency are inadequate to achieve emissions standards. The battery heating system is in fair to poor condition. The overall battery temperature is too high for the present coking time and crosswall temperature profiles are poor. The present condition of the heating system will limit the gross coking time to 22 hours or 71 pushes per day. Cracked

gooseneck and elbow castings are permitting flushing liquor to spill onto the battery tops, buckstays, and doors. The No. 3 pusher ram is tracking to the north of the oven chamber. The battery side door machine rail is badly worn and the coke guide wheels are worn severely.

Major Recommendations

A complete list of recommendations begins on page 11 of the report. Major recommendations are highlighted below.

A. Implement a trial heating program on ten consecutive ovens to establish proper heating conditions. Following completion of this program, adjust heating on the remainder of the oven based upon trial results.

B. Closely monitor oven wall condition, particularly on the coke side. Provide an inventory of coke side wall brick for six walls, four flues deep, floor to roof.

C. Remove heavy carbon buildup at oven floors. Modify a pusher side door to permit measurement of oven pressure throughout the coking cycle. Adjust collecting main pressure to assure a positive oven pressure at all times. A negative pressure will permit air infiltration which will aggravate carbon formation and refractory damage.

D. Investigate the cause of the pusher ram tracking to the north. Shoe wear and/or ram misalignment are suspected.

E. Replace coke guide wheels and door machine inboard rail.

The above recommendations are complementary to the recommendations made by Messrs. Hatters and Sundholm in the attached trip report dated November 16, 1984. That report recommends a patching/dusting program, improvements to the heating system, and adoption of an intensive door repair program.

A task force comprised of appropriate operating, maintenance, environmental control, and engineering personnel has been

assigned to develop and implement programs necessary to accomplish the specified recommendations. Assistance is being provided from Corporate Engineering, Research and other LTV Coke Plant operations as required. Progress reports will be issued on a monthly basis beginning in February.

/s/_____
B.J. Fedak, Director
Development Engineering

JLS:jg

cc: S.H. Beavers*
J.T. Bradford, Jr.
D.F. Brown
W.R. Davidson*
W.C. Greer
H.D. Hatters*
W.H. Lusk*
K.W. Means**
E. Spirko*
J.L. Sundholm*
D.H. Wakelin
W.L. Weeks
W.L. West**
W.G. Wiley, Jr.

*With wall inspection sheets.
**Previously issued.

APPENDIX M

LTV Steel
Departmental Correspondence

Subject: Gulf States Steel — Date: February 11, 1985
No. 2 Battery Inspection
To: J.N. Nichols

Attached is the report of the No. 2 Battery Inspection which was recently performed.

Summary of Condition

Overall, the battery condition is deemed to be fair to poor. End flue deterioration is severe on both sides and is characterized by spalls, wall shifting, vertical racks, and offsets. Roofs are in fair to poor condition due to large cracks and spalls. Oven floors are severely worn and may be weakened to the point where insufficient strength exists to support the pusher ram. Corbel brickwork also is in poor condition. Coal and coke deposits on the battery top prevented evaluation of top side refractories.

Buckstays on both sides exhibit bowing and twisting. Some jamb castings (particularly on the coke side) were noted to be bowed and hourglassed. Both the coke side and pusher side benches are leaning out, a condition caused by the outward fan of the battery. The inside door machine rail is in very poor condition.

Fuel gas piping is in good condition and basement housekeeping is considered *outstanding*. Collecting mains are in poor condition. Standpipes are in fair condition, while 13 gooseneck castings are cracked.

Recommendations

1. After each push, the oven should be inspected to determine if the oven condition warrants the next scheduled charge. Large cracks, holes, etc. should be repaired before the charge to minimize stack leakage.

2. The end flue brick repair program which was implemented in 1984 must be continued.

3. Patching techniques recently implemented in No. 3 Battery as the result of training provided by Didier, GmbH. should be adopted on No. 2. Silica dusting should also be implemented if overall oven patching is successful in minimizing leakage through larger cracks.

4. End closures (buckstays, jambs, face plates) should be regularly inspected. Buckstays which present imminent interference with operations (door machine travel, door removal) and those which provide insufficient bearing to prevent leakage which is not correctable by reasonable means such as patching, should be replaced. Jambs which are in such condition that door emissions regularly occur with a "good" door and with foam spraying should be replaced.

5. Collecting main pressure which was observed at 7.5 mm W.C. has been raised to 9.0 mm. This increase should aid in sealing oven wall cracks and reduce stack emissions.

6. A regular program of damper cleaning and replacement of deteriorated gooseneck castings is necessary to minimize the risk of wall damage from flushing liquor.

In view of the overall battery condition and the inherent limited remaining battery life, major expenditures to restore battery integrity are not recommended.

/s/

B.J. Fedak, Director
Development Engineering

JLS:jg

cc: S.H. Beavers
J.T. Bradford, Jr.
D.F. Brown
W.R. Davidson
W.C. Greer
H.D. Hatters
W.H. Lusk
K.W. Means
D.H. Miller
E. Spirko
J.L. Sundholm
D.H. Wakelin
W.L. Weeks
W.L. West
W.G. Wiley, Jr.

APPENDIX N

GULF STATES STEEL CORPORATION

Gadsden, Alabama
Interoffice Correspondence

February 4, 1984

J.N. Nichols
Vice President - Operations

A meeting was held in Montgomery, January 31, 1985, to discuss environmental issues related to the Coke Plant and B.O.F. Attending from Gulf States Steel were K.W. Means and E.M. Stewart. Present from LTV Environmental Control were W.L. West and D.H. Miller. Representing ADEM were Richard Grusnick, Sue Robertson, Ron Gore and John Hughes.

The meeting was opened with a discussion of the Coke Plant. Mr. Grusnick stated that it was their preference to address doors and No. 3 battery stack first, since they felt these items would be brought into compliance early. Also, they have doubts that the program outlined for No. 2 battery will bring the stack into compliance. He also stated that they only want to include No. 2 battery stack in the "order" if we feel No. 3 battery and No. 2 doors will be in compliance within the next 2-3 weeks.

The discussion began with doors and an update on the spray-foam process. We related to them that we have sprayed 20 doors and 18 of them have been sealed. The ADEM wanted to know what was involved in the foam process, and if we planned to keep spraying after the battery achieved compliance. We discussed the process and explained that foaming was a temporary measure, and that the door repair program we had outlined would achieve compliance; however, we planned to spray-foam as necessary.

At this point, we discussed our door repair program and updated them on our plans to send doors to an outside shop, as well as repair them in-house. Mr. Grusnick asked when we would have the doors in compliance. We replied that we were not prepared to set a definite date, since the foam process had just begun this week, and we had no feel for how long it would take to cover both sides of the battery. He then suggested that we delay a decision on a date for a couple of weeks to allow time to evaluate the foam process.

The discussion then turned to No. 3 stack. We updated the ADEM on what progress we had made, such as patching/dusting, the hiring of Didier Engineering to instruct us on patching/dusting, and the ceramic welding that is going on this week. Mr. Grusnick asked if we felt patching/dusting was responsible for the fact that their readings of December 4, and January 16, showed the stack was in compliance. We replied that patching/dusting was partly responsible, but other things that had been done also contributed. Again, they asked for a specific date when we felt No. 3 stack would be in compliance. We replied that we felt it would be difficult to say No. 3 would be in compliance 100% of the time because of such things as air box replacements remaining to be done. Again Mr. Grusnick recommended that we delay a decision on this item. He stated it was their preference to resolve these two issues and not have them a part of the "order," and let us continue with the rest of the program as we had outlined.

The discussion then turned to No. 2 stack. The ADEM expressed their doubts that the program outlined would bring No. 2 stack into compliance due to the age of the facility. They asked if we had any doubts. We replied that there were doubts anytime you dealt with a battery of this age, and that we had no experience with any similar work having been done. However, we stated that we are more optimistic now than when we started the program.

The discussion centered on the "order", and the ADEM stated it would require the posting of a performance bond. We asked how much the bond would be, and they replied that it would be difficult to say on a project of this type. Normally, the bond is 10%-15% of the cost of installing the mechanism to correct the problem.

At this time, the B.O.F. monovent was discussed. ADEM reiterated their desire for 20% opacity for 3 minutes. We stated that we felt this limit was too strict, and that 40% was more appropriate. Ms. Robertson produced a document she had obtained from the City of Cleveland relating to B.O.F. emissions at 20% for 3 minutes. Mr. West disputed her figures, and after some discussion, she agreed to recheck her information. Mr. West was asked to supply ADEM with any opacity limitations imposed on other LTV plants. ADEM was asked if they must have some measurable standard, would they be willing to discuss some other area other than the B.O.F. They were not receptive to this idea. Also they said the original list of items they gave us in regard to the attainment issue, such as washing roads, treating unpaved areas, etc., would now have to have a measurable standard. They attributed this and many other things to the U.S. EPA.

Mr. Grusnick stated that he had never been to our plant and would like to meet at our plant within the next two weeks. A meeting was scheduled for Friday, February 15, at 10:30 A.M. at the Gadsden plant.

The meeting was then adjourned.

During pre-meeting discussions with Mr. West and Mr. Miller, it was learned that Research personnel have done much work in charging, blowing, and fluxing practices. This work has led to improvements in B.O.F. emissions by eliminating "slopping" during the process. This has not only improved emissions, but also increased yields by 1%-2%. I recommend

that these people visit our plant and share their expertise with Melt Shop operators.

/s/

K.W. Means
Works Engineer

KWM: bcb

cc: W.L. Weeks
G.W. Freeman
S.H. Beavers
R.H. Kimberley
E.M. Stewart
W.R. Davidson
R.L. Amos

APPENDIX O

GULF STATES STEEL CORPORATION
Gadsden, Alabama
Interoffice Correspondence

February 8, 1985

K.W. Means
Chief Engineer

SUBJECT: Coke Plant Air Inspection

On February 7, 1985, Mr. John Hughes of the Alabama Department of Environmental Management (ADEM) - Air Division conducted an inspection at the Coke Plant. The results are as follows:

	Pass/Fail	% Actual	% Allowed
No. 2 Battery			
Stack	Failed	20.5 min.)20% opacity/hr.	3 min.)20% opacity/hr.
Doors	Failed	17.7% leaks	15% leaks
Topside	Passed	8% leaks	10% leaks
Charging Holes	Passed	1.5% leaks	5% leaks
No. 3 Battery			
Stack	Failed	13.8 min.)20% opacity/hr.	3 min.)20% opacity/hr.
Doors	Passed	7% leaks	15% leaks
Topside	Passed	6% leaks	10% leaks
Charging Holes	Passed	<1% leaks	5% leaks

Mr. Hughes said that he will return for another inspection on either Monday or Tuesday of next week.

/s/

E.M. Stewart
Environmental Engineer

EMS: bcb
Attachment

cc: J.N. Nichols
G.W. Freeman
S.H. Beavers
W.L. West
M.L. Harmon

APPENDIX P

Alabama Department of Environmental Management
February 22, 198

MEMO

TO: File

FROM: Sue R. Robertson, Chief
Planning/Development Branch
Air Division

SUBJECT: Meeting with Gulf States Steel
(307-0008)

On January 31, 1985, a meeting was held in Montgomery, Alabama to discuss the compliance status of the #2 and #3 coke batteries. Those in attendance were as follows:

Dave Miller	LTV Steel - Pittsburgh, PA
Kenneth Mean	GS Steel - Gadsden, AL
Buster Stewart	GS Steel - Gadsden, AL
Bill West	LTV Steel - Cleveland, OH
Ron Gore	ADEM - Air Division
Sue Robertson	ADEM - Air Division
Richard Grusnick	ADEM - Air Division
John Hughes	ADEM - Field Operations Division

The discussion centered around four topics: (1) doors on #2 and #3 coke battery, (2) #3 battery flue stack, (3) #2 battery flue stack, and (4) a BOF shop opacity standard.

Doors on #2 and #3 Coke Battery

Mr. Grusnick stated the last inspection of the doors on #2 coke battery indicated that emissions have increased since the last inspection and percent opacity on the #3 doors have also increased to 15.4% (applicable regulation allows 15% leakage).

It was also asked whether the increased cleaning program, i.e., removing tar build up which allows for more leaks until the

doors were rebuilt or realigned, was the reason for the increased leaks and was it anticipated that the number of leaks would increase further before they decreased?

Kenneth Mean stated that the equipment has arrived for foaming the doors. It has been recommended that foaming should be done every 4th push. So far they have done 20 doors, 18 have stopped leaking. They are buying the foaming equipment so that LTV will be able to keep the program up.

They are using contractors, in addition to their own maintenance shop, to speed up door repairs.

Mr. Mean stated that LTV felt that excess door leakage on #3 battery during the last inspection was due to chuck door leaks caused by the pusher machine not setting the door back properly after leveling the coal. This problem had hopefully been corrected.

Mr. Dave Miller explained that the foaming technique was not like mud luting. Experience at the J&L plant had shown that when used like the traditional mud luting, it interferes with the door mechanism. Instead, the foam is placed on the door edge prior to the door being returned to the oven after a push.

When discussing how the schedule in an Order would be written, LTV felt that compliance would be demonstrated very soon. It was decided to evaluate door performance during the month of February to determine whether it should be in the Order.

#3 Underfiring Stack

LTV felt that the dusting program has been a major part of the success in reducing stack emissions. They are doing ceramic welding on cracks in the oven walls this week, also.

LTV is of the opinion that the #3 battery probably will continue to show compliance and probably should not be included in the Order.

#2 Underfiring Stack

The schedule submitted by LTV indicates all work regarding the #2 stack will be complete by November 26, 1985. Discussion with LTV indicated that they will not state that the battery stack will be in compliance by this date. Bill West stated that he felt more comfortable about the stack now than in September, but it was still too early to tell.

In discussing the #2 stack, Kenneth Mean stated that the cause of the last high V.E. was a hole in one of the batteries which was found after the oven was pushed and was repaired immediately. He stated that these types of emissions should not be considered a violation. We responded that due to the age and condition of #2 battery this type of problem was no longer considered an isolated instance when enforcement discretion was appropriate.

BOF Monovent

LTV feels that based on availability and confidence level of existing equipment that a 3-minute rolling average was not appropriate. Also, this stringent a limitation had not been applied to any of the other LTV installations.

I stated that the old J&L plant in Cleveland was subject to the 3-minute-20% aggregate rule according to the Cleveland Air Pollution Program. Mr. West then stated while that may be true, Region V had determined that the 6-minute rolling average was equivalent to the 3-minute rule.

It was decided that I would contact "Wojo" of Region V regarding this interpretation.

It was decided the next meeting would be at the Gadsden facility in February.

SRR: um

APPENDIX Q

LTV Steel
Departmental Correspondence

Subject: Air Pollution Control Issues - Gadsden

Date: February 28, 1985

To: W.G. Wiley No: 0411b

Representatives of LTV Steel, Gulf States Steel, and the Alabama Department of Environmental Management met in Gadsden on February 27, 1985 to discuss the issue of non-compliance with the Alabama regulations. Following an inspection of the coke plant and BOF areas, Mr. Richard Grusnick, Chief of ADEM's Air Division stated the agency's position as follows.

(1) Since Gulf States has recently demonstrated compliance with the door emission standards, ADEM would not be taking any enforcement action on this item but would expect the company to maintain compliance.

(2) While ADEM believes that Gulf States Steel has made significant improvements in battery stack emissions, compliance still has not been achieved on a consistent basis. The agency accepts the program previously submitted by LTV Steel to bring the stacks into compliance. ADEM, therefore, intends to issue an administrative compliance order to Gulf States which would require the following:

(a) A demonstration of compliance at the end of the aforementioned program (November 26, 1985).

(b) A performance bond of $150,000 per battery to assure the achievement of compliance.

The compliance bond would be returned upon a demonstration of compliance.

The LTV Steel and Gulf States Steel representatives agreed with the agency's position on doors. We did object to the amount of the bond and the November 26 compliance date for stack emissions. Mr. Grusnick explained that ADEM's policy requires a performance bond equal to 10% of the capital cost of the air control system needed to assure compliance. In this case, the agency estimated a baghouse would cost $1,500,000 per battery. To the final compliance date, Mr. Grusnick was amendable to a 60 day period after November 26 for a compliance demonstration. Further discussions will be necessary to define the compliance test.

Mr. Grusnick expects to have a draft order available for review by LTV Steel and Gulf States Steel within two weeks. The agency would be amenable to suggestions by the companies as long as the order complies with the agency's requirements. The agency's lawyers will be involved with negotiations on the order.

APPENDIX R

Alabama Department of Environmental Management

October 1, 1985

FEDERAL EXPRESS

J.D. Donohoe
Law Department
LTV Steel Company, Inc.
25 West Prospect Street
Cleveland, Ohio 44101

Dear Mr. Donohoe:

Enclosed are the most recent revisions of the proposed Administrative Order and Surety Bond for Gulf States Steel Corporation, which reflect the changes we discussed during the conference calls on August 26, 1985.

Please let me have your comments as soon as possible.

Sincerely,

/s/_____
Kerry J. Allen
Associate General Counsel

KJA/rdg

Enclosures

cc: Mary Lou Harmon
Kenneth Means
William L. West
Richard Grusnick

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF GULF STATES STEEL CORPORATION GADSDEN, ALABAMA

ORDER NO. AP-85

FINDINGS OF FACT

Pursuant to the provisions of the Alabama Environmental Management Act, §22-22A-1 *et seq.*, *Code of Alabama* 1975 (1984) and the Alabama Air Pollution Control Act, §§22-28-1 *et seq.*, *Code of Alabama* 1975 (1984), the Alabama Department of Environmental Management (hereinafter, "the Department") makes the following FINDINGS OF FACT:

1. Gulf States Steel Corporation (hereinafter, "Gulf States"), previously CKH Corporation, owns and operates an integrated steel mill (hereinafter, "the Gadsden facility") in Gadsden, Etowah County, Alabama.

2. On August 15, 1984, the Gadsden facility was observed to be in violation of Section 4.9.8 (Combustion Stacks) Chapter 4 - Control of Particulate Emissions, of the Department's Air Division Regulations in that visible emissions greater than twenty percent (20%) for periods aggregating more than three (3) minutes in any consecutive sixty (60) minutes were observed.

Source	Visible Emission Readings >20%
Flue Stack on #2 Coke Battery	21 minutes
Flue Stack on #3 Coke Battery	19.5 minutes

3. On August 28-29, 1984, the Gadsden facility was observed to be in violation of Section 4.9.8 (Combustion Stacks) Chapter 4 - Control of Particulate Emissions, of the Department's Air Division Regulations in that visible emissions greater than twenty percent (20%) for periods aggregating more than three (3) minutes in any consecutive sixty (60) minutes were observed.

Source	Visible Emission Readings >20%
Flue Stack on #2 Coke Battery	1st Hour - 55 minutes 2nd Hour - 41.5 minutes 3rd Hour - 15 minutes
Flue Stack on #3 Coke Battery	1st Hour - 13 minutes 2nd Hour - 4.75 minutes

4. On October 2, 1984, the Gadsden facility was observed to be in violation of Section 4.9.8 (Combustion Stacks) Chapter 4 - Control of Particulate Emissions, of the Department's Air Division Regulations in that visible emissions greater than twenty percent (20%) for periods aggregating more than three (3) minutes in any consecutive sixty (60) minutes were observed.

Source	Visible Emission Readings >20%
Flue Stack on #3 Coke Battery	1st Hour - 23.5 minutes 2nd Hour - 0 minutes 3rd Hour - 14.25 minutes

5. On December 5, 1984, the Gadsden facility was again observed to be in violation of Section 4.9.8 (Combustion Stacks) Chapter 4 - Control of Particulate Emissions, of the Department's Air Division Regulations in that visible emissions greater than twenty percent (20%) for periods aggregating more than three (3) minutes in any consecutive sixty (60) minutes were observed.

Source	Visible Emission Readings >20%
Flue Stack on #2 Coke Battery	7 minutes

6. On January 16, 1985, the Gadsden facility was observed to be in violation of Section 4.9.8 (Combustion Stacks) Chapter 4 - Control of Particulate Emissions, of the Department's Air Division Regulations in that visible emissions greater than twenty percent (20%) for periods aggregating more than three (3) minutes in any consecutive sixty (60) minutes were observed.

Source	Visible Emission Readings >20%
Flue Stack on #2 Coke Battery	59.5 minutes

7. On February 7, 1985, the Gadsden facility was observed to be in violation of Section 4.9.8 (Combustion Stacks) Chapter 4 - Control of Particulate Emissions, of the Department's Air Division Regulations in that visible emissions greater than twenty percent (20%) for periods aggregating more than three (3) minutes in any consecutive sixty (60) minutes were observed.

Source	Visible Emission Readings >20%
Flue Stack on #2 Coke Battery	20.75 minutes
Flue Stack on #3 Coke Battery	13.75 minutes

8. On February 22, 1985, the Gadsden facility was observed to be in violation of Section 4.9.8 (Combustion Stacks) Chapter 4 - Control of Particulate Emissions, of the Department's Air Division Regulations in that visible emissions

greater than twenty percent (20%) for periods aggregating more than three (3) minutes in any consecutive sixty (60) minutes were obeserved.

Source	Visible Emission Readings >20%
Flue Stack on #3 Coke Battery	18.25 minutes

9. On March 14, 1985, the Gadsden facility was again observed to be in violation of Section 4.9.8 (Combustion Stacks) Chapter 4 - Control of Particulate Emissions, of the Department's Air Division Regulations in that visible emissions greater than twenty percent (20%) for periods aggregating more than three (3) minutes in any consecutive sixty (60) minutes were observed.

Source	Visible Emission Readings >20%
Flue Stack on #2 Coke Battery	9.75 minutes
Flue Stack on #3 Coke Battery	4.24 minutes

10. The lack of continual maintenance of Coke Batteries #2 and #3 has contributed to the violations cited in items 2 through 9, above.

ORDER

Based upon the foregoing FINDINGS OF FACT and pursuant to Code of Alabama §22-22A-5(10) and §22-28-10(2), it is hereby ORDERED:

A.

Prior to a change in ownership or use of any source covered by this Order, Gulf States shall notify each transferee, in writing, of the existence of this Order and of its binding effect upon Gulf States. A copy of such notification shall be provided to the Department showing that a copy of this Order was provided to each transferee by Gulf States. Gulf States shall be liable for all requirements of this Order as to such source during any period of ownership or use by Gulf States.

B.

1. Compliance with Section 4.9.8 of the Department's Air Division Regulations shall be achieved for #2 Coke Battery by November 30, 1985.

2. Compliance with Section 4.9.8 of the Department's Air Division Regulations shall be achieved for #3 Coke Battery by October 31, 1985.

3. Compliance with Section 4.9.8 of the Department's Air Division Regulations shall be determined by 40 C.F.R. 60, Appendix A, Method 9 and the following procedures:

(a) Visible emission observers shall be certified in accordance with the procedures specified at 40 C.F.R. Part 60, Appendix A, Method 9.

(b) The provisions of Method 9, Section 2.5, shall not be used to determine compliance with the visible emission performance standards.

(c) In determining compliance, the emission standard shall not be construed to require three consecutive minutes of readings greater than twenty percent (20%) opacity.

(d) Each momentary observation that is recorded at 15-second intervals shall be used to determine compliance with the standard. Each observation that is greater than twenty percent (20%) opacity shall be counted in determining the hourly aggregated period.

(e) In making observations of stack emissions, the reader shall be positioned in accordance with the provisions of Section 2.1 of Method 9.

(f) Visible emission observations for the determination of compliance shall be conducted during the hours that the Coke Battery is being charged and/or pushed.

C.

By November 1, 1985, Gulf States shall post Surety Bonds in the total amount of $200,000 to insure compliance with the above provisions. Said Surety Bonds are Surety Bond "A" and Surety Bond "B", which are attached hereto and hereby made a part of this Order. The failure of Gulf States to comply with any of the provisions of this Order shall constitute cause for the forfeiture of part or all of the Surety Bonds, according to their terms. Release of said Surety Bonds shall be made upon demonstration of compliance for the applicable Coke Battery or upon a bonafide and complete sale of the Gadsden facility by Gulf States, according to the procedure described in each Bond.

D.

The terms and requirements of this Order shall terminate only upon demonstration of compliance for both #2 and #3 Coke Batteries, or upon a complete and bonafide sale of the Gadsden facility, as specified in Surety Bond "A" and Surety Bond "B", and upon release of said Bonds by the Department. Failure to

comply with the provisions of this Order shall constitute cause for the commencement of legal action by the Department for the recovery of civil penalties or other appropriate relief.

ORDERED and ISSUED this 1st day of October 1985.

Joe B. Broadwater, Director
Alabama Department of
Environmental Management
1751 Federal Drive
Montgomery, Alabama 36130
(205) 271-7700

APPENDIX S

Alabama Department of Environmental Management

October 18, 1985

MEMORANDUM

TO: David Ludder, General Counsel

FROM: Kerry Allen, Associate General Counsel

SUBJECT: Proposed Administrative Order to Gulf States Steel Corporation

A draft administrative order was sent to Gulf States Steel Corporation on August 20, 1985, and a Show Cause meeting was held on September 4. In attendance were Jim Donohoe, attorney for LTV Steel, Mary Lou Harmon also of LTV, and Stanley Holcolm and Kenneth Means of Gadsden, as well as Richard Grusnick, Sue Robertson, and Ron Gore of the Air Division, and myself.

Gulf States' objections to the draft order were, as follows:

A. Findings of Fact - none stated.

B. Order portion:

1. A great many of the requirements of the order for repairs or replacement of ovens and components have already been met (letter confirming this received October 1).

2. Compliance demonstration should be defined and the procedure for demonstration spelled out in the order (agreed to by Air Division).

3. Gulf States did not intend and should not be required to make a second repair cycle for all ovens now repaired or needing repair (Gulf States offered to inspect and patch ovens as needed after each push).

4. Bonds required by the order are too expensive and present too great a risk for Gulf States' precarious financial condition. Gulf States also wished to demonstrate compliance earlier than the date required by the draft order.

These and other adjustments in language and requirements of the bonds and order were made and sent to all participants on September 6. In a conference call on September 24 involving the same personnel, Gulf States altered their offer to inspect and repair ovens after each use, objected to the compliance test procedures as outlined by the Department, and again objected to the amount of the bonds to be obtained, as well as to the forfeiture schedule.

As a result of two conference calls held on September 26, the Department's compliance test and forfeiture schedule were agreed to. The bond amounts were lowered to $100,000 per battery. Both the bonds and proposed order were again redrafted and mailed on October 1. On October 9, Jim Donohoe called to request a change in the bond language and to say he would know in approximately one week if the bonds could be obtained. To date, no word regarding the bond availability has been received.

RECOMMENDATION:

Over one-half of the month (October) during which Gulf States intended to demonstrate compliance for one of the batteries has now elapsed. A great deal of time and energy has been expended on meetings, correspondence, drafts and redrafts of documents and telephone calls, even prior to involvement of this office.

Gulf States appears to be reluctant to commit to any definite program to achieve long-term compliance of this facility because of the always-imminent sale of the plant, low profitability, and what appears to be a general pattern of poor management aimed at short-term results. Short of legal action, which may threaten continued operation (or sale) of the plant, the

Department's options range from tolerating the violations to EPA involvement, which becomes more likely with time.

With regard to the administrative order, I would recommend its [...] in its present form should Gulf States agree to voluntarily post bonds in the required amount, but would remind the Department that the lack of statutory authority to require bonds makes the order, or later forfeiture demands, subject to this defense.

In the event that the bonds cannot be obtained, or where no definite determination is made in the next few days, I would still recommend issuance of the order, omitting the bond requirement, redefining the compliance test procedure to coincide with the present regulations, and prescribing a stringent but reasonable repair schedule and recordkeeping requirements, as determined by the Air Division to more likely result in continued compliance, to remain in effect until appropriate controls are installed or until all violations are eliminated for a six month period or longer. Such requirements would be defensible assuming they were reasonable, likely to lead to continued or greater compliance, similar to those already proposed (and withdrawn) by Gulf States, and the Department was willing to forego legal action for past and ongoing violations so long as the order was obeyed. In the event of a prolonged administrative or legal challenge to an order in this form, it could be withdrawn and legal action to redress all past and continuing violations could be instituted at that point.

KJA/rdg

cc: Richard Grusnick

APPENDIX T

LTV STEEL
LAW DEPARTMENT
DEPARTMENTAL CORRESPONDENCE

Subject: Coke Battery Nos. 2 & 3
ADEM Consent Order Negotiations

Date: November 11, 1985

To: W.L. Weeks

No: 1806B

The purpose of this letter is to memorialize the substance of various telephone conversations I have had with Kerry Allen concerning the Administrative Order we have been negotiating over the past several weeks with respect to the combustion stacks of coke battery nos. 2 and 3 at Gadsden. As you know, Kerry Allen is the Associate General Counsel of the Alabama Department of Environmental Management (ADEM) and is the principal ADEM lawyer involved in this matter.

By way of background, I think it is important to review, for the record so to speak, the status of the negotiations between Gulf States Steel and ADEM. Essentially, the terms of the Administrative Order had been finalized. A copy of the latest draft of that Order, which accompanied Kerry Allen's October 1, 1985 letter to me, is attached. Among other things, the proposed Order required the posting of a $100,000 surety bond for each battery. The bonds would be forfeited or released pursuant to the terms of the Order.

At my request, Tom Ward attempted to secure the two surety bonds in accordance with established procedures. In that connection I enclose herewith a copy of Mr. Ward's October 4, 1985 letter to Mr. Michael D. Ross of Marsh & McLennan, Inc., as well as a copy of Mr. Ross's reply to Tom Ward of October

14, 1985. As you can see from this correspondence, Aetna is unwilling to issue the surety bonds at this time. I have been advised by Tom Ward that there is no possibility that any other insurance company will issue these bonds to Gulf States Steel.

On October 20, 1985, I informed Kerry Allen that Gulf States Steel was unable to secure the surety bonds at this time. After reviewing the matter with Mr. Richard Grusnick, Ms. Allen informed me that although it was displeased with that turn of events, ADEM had not made a decision to initiate formal enforcement action against Gulf States Steel with respect to the combustion stacks of battery nos. 2 and 3. Ms. Allen further informed me that ADEM would be inspecting the battery stacks frequently and that the ADEM did not contemplate bringing any formal enforcement action against Gulf States Steel so long as the combustion stacks of battery nos. 2 and 3 were in compliance with applicable regulations. Ms. Allen, of course, cautioned that she could not speak for the U.S. EPA with respect to either past or future violations of applicable regulations.

Under the circumstances, it does not appear that the position of Gulf States Steel can be significantly enhanced by continuing negotiations with the ADEM for an Administrative Order. The only reasonable alternative to a surety bond, is for Gulf States Steel to offer to put up cash or some other collateral in lieu of the surety bonds. The significant advantage to Gulf States Steel that the proposed Order would have provided, namely protection against a formal enforcement action and avoidance of potentially higher penalty exposure, appears, in light of Ms. Allen's remarks, to be obtainable without the consent order if the battery stacks are maintained in compliance with applicable regulations. The other principle advantage of the Order would have been to forestall federal enforcement action by the U.S. EPA. However, as long as the battery stacks are maintained in compliance in the future, it would appear that

the risk of federal enforcement with respect to past violations is minimal.

In view of the above, it is our recommendation that no further efforts on our part be initiated to negotiate the proposed Order. If you have any questions concerning the above comments or would like to discuss the matter further in any way, please do not hesitate to get in touch.

/s/
James D. Donohoe

JDD:cm

Enclosures

cc: M.L. Harmon
S. Holcombe
J.P. Kelly
K.W. Means
C.L. Medford
W.L. West
T.A. Zalenski

APPENDIX U

Alabama Department of Environmental Management

January 9, 1986

CERTIFIED MAIL, No. P 686 585 497
RETURN RECEIPT REQUESTED

Mr. Kenneth Means
Environmental/Engineering Manager
Gulf States Steel Corporation
174 S. 26th Street
Gadsden, AL 35901

Dear Mr. Means:

This Notice of Violation is issued for exceedances of visible emission limits noted during inspections in December, 1985. The specific violations are:

Source	Date	Application ADEM Regulation	Visible Emission Reading
#2 Coke Battery Stack	Dec. 17, 1985	Section 4.9.8	13¼ minutes out of15 minutes greater than 20% opacity
#2 Coke Battery Stack	Dec. 27, 1985	Section 4.9.8	16½ minutes out of 60 minutes greater than 20% opacity

#2 Coke Battery Stack	Dec. 30, 1986	Section 4.9.8	4½ minutes out of 60 minutes greater than 20% opacity
#3 Coke Battery Stack	Dec. 27, 1985	Section 4.9.8	11½ minutes out of 60 minutes greater than 20% opacity
#3 Coke Battery Stack	Dec. 30, 1985	Section 4.9.8	31 minutes out of 60 minutes greater than 20% opacity
Basic Oxygen Furnace Shop Roof Monitor	Dec. 27, 1985	Section 4.17.1	3 minute averages of 35.4%, 67.2%, and 63.8%
Basic Oxygen Furnace Shop Roof Monitor	Dec. 30, 1985	Section 4.17.1	3 minute averages of 20.5%, 23.3%, 35.4%, 27.5%, and 43.8%

Not later than January 24, 1986, you are requested to file with the Department a full written report showing the steps that have been taken and are being taken to correct the violations. Such report should be mailed or delivered to the undersigned at the Department. Failure to file a report showing expeditious corrective actions could result in the revocation of your Permits.

Should you have any questions concerning this matter, please contact me at 205/271-7861.

Sincerely,

/s/
Richard E. Grusnick, Chief
Air Division

REG/RG:um

cc: John Hughes

APPENDIX V

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

June 13, 1986

CERTIFIED MAIL 686585753
RETURN RECEIPT REQUESTED

Mary Teresa Sobnosky
Amer Cunningham Brennan Co.
First National Tower
Akron, Ohio 44308

Dear Ms. Sobnosky:

RE: Gulf States Steel, Inc.

Enclosed please find Administrative Order No. 86-081-WP which requires Gulf States Steel, Inc. to take certain actions regarding the discharge of pollutants into waters of the state. In issuing this Order, the Department has considered the comments you made at our meeting. You will note that certain changes have been made in accordance with the information you submitted at that meeting.

Please be advised that failure to comply with the terms of this Order can result in penalties of up to $25,000 per day for each violation, as well as possible criminal penalties.

If you have any questions, please feel free to contact me.

Sincerely,

/s/_____
Olivia Hardy Hudgins
Associate General Counsel

Enclosure

cc: Charles Horn, Chief
Water Division

Jim Moore, Water Division
Industrial Branch

Dave Olson, EPA
Region IV

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF

GULF STATES STEEL, INC. GADSDEN, ALABAMA

ORDER NO. 86-081-WP

FINDINGS OF FACT

Pursuant to the provisions of the Alabama Environmental Management Act, *Code of Alabama* 1975, §§ 22-22A-1 to 22-22A-15 (1984), the Alabama Water Pollution Control Act, *Code of Alabama* 1975, §§ 22-22-1 to 22-22-14 (1984), and the National Pollutant Discharge Elimination System administered by the Alabama Department of Environmental Management (hereinafter, "the Department") and approved by the Administrator of the U.S. Environmental Protection Agency pursuant to the Federal Water Pollution Control Act § 402, 33 U.S.C. § 1342, the Department makes the following

FINDINGS OF FACT:

1. Gulf States Steel, Inc. (hereinafter, "the Operator") operates an integrated iron and steel production facility located in Gadsden, Alabama.

2. *Code of Alabama* 1975, § 22-22-9(j) (6) (1984) provides that "every person, prior to discharging any new or increased pollution into any waters of this state shall apply to the [Department] in writing for a permit and must obtain such permit before discharging such pollution." ADEM Admin. Code R. 6-6-.03 provides that "[n]o person shall discharge pollutants from a point source into waters without first having obtained a valid NPDES [National Pollutant Discharge Elimination System] permit . . . ."

3. The NPDES permit issued to the previous owner of the Gadsden facility expired September 1, 1980, and since that time no NPDES permit has been issued for the Gadsden facility. The Operator has initiated the process of obtaining a NPDES permit.

4. On February 14, 1986, the Operator discharged pollutants and other industrial wastes from a point source to Black Creek, a water of the state.

ORDER

Based upon the foregoing FINDINGS OF FACT and pursuant to *Code of Alabama* 1975, §§ 22-22A-5(10), 22-22-9(c), 22-22-9(j), and 22-22-9(1) (1984) and the National Pollutant Discharge Elimination System administered by the Department and approved by the Administrator of the U.S. Environmental Protection Agency under the National Water Pollution Control Act § 402, 33 U.S.C. § 1342 it is hereby ORDERED:

A. That not later than 180 days after receipt of notice of this Order, the Operator shall either obtain a NDES permit authorizing discharges from a point source to Black Creek, or it shall terminate all unpermitted discharges from its facility to waters of the state.

B. That the failure to comply with the provisions of this Order shall constitute cause for the commencement of legal action for the recovery of civil penalties, criminal fines, or other appropriate relief by the Department against the Operator.

C. That issuance of this Order does not preclude the Department from seeking civil penalties, criminal fines, or other appropriate sanctions or relief against the Operator for the violations stated herein.

ORDERED and ISSUED this 12th day of June 1986.

/s/

Leigh Pegues, Director
Alabama Department of
Environmental Management
1751 Federal Drive
Montgomery, Alabama 36130
(205)271-7700

APPENDIX W

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

REGION IV, 349 COURTLAND STREET
ATLANTA, GEORGIA 30365
March 30, 1987

Mr. John Poole, Jr.
Water Division
AL Dept. of Environmental Mgmt.
1751 Federal Drive
Montgomery, Alabama 36130

RE: Unresolved 301(g) Requests

Dear Mr. Poole:

According to our records, there are currently 3 pending Section 301(g) variance requests for which ADEM has not yet taken any action. These requests are:

Facility	NPDES No.	Parameter
Republic Steel - Gadsden	AL0003522	total phenols, NH3
Republic Steel - Thomas	AL0003531	total phenols, NH3
Reynolds Aluminum	AL0000035	aluminum - Alloys Plant aluminum, fluoride - Listerhill Plant aluminum, NH3 - Alabama Reclamation Plant

Under the provisions of the recently - passed Water Quality Act of 1987 (February 4, 1987), all pending applications as of the date of enactment of this Act must be approved or disapproved by the Administrator of EPA within 365 days of the date of enactment. In order to meet this requirement, we request that ADEM resolve these pending requests as soon as possible. As you are aware, Region IV cannot review a request until State action is completed. If a facility is not currently discharging, we recommend that its 301(g) request be inactivated now and that it be re-applied for upon resumption of the discharge.

Also under the provisions of the new Act, requests for 301(g) variances are restricted to and can only be made for the parameters ammonia, chlorine, iron, color, and total phenols (AAP). Consideration of other parameters can only be given if petitions are made and special listing criteria are met (see enclosure).

Please advise me of the status of these pending requests. Please call me at (404) 347-3012 if you have any questions.

Sincerely yours,

/s/

Marshall Hyatt
Environmental Scientist
Facilities Performance Branch
Water Management Division

Enclosure

APPENDIX X

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

July 14, 1987

Mr. Marshall Hyatt
Environmental Scientist
Water Management Division
Environmental Protection Agency
345 Courtland Street
Atlanta, GA 30365

Dear Mr. Hyatt:

Re: 301(g) Variance Request
Republic Steel - Gadsden NPDES No. AL0003522
Republic Steel - Thomas Plant NPDES No. AL0003531

This is in response to your March 30, 1987, letter regarding the status of several 301(g) variances requests on which the Department has taken no formal action.

The Republic Steel facility in Thomas has been inactivated and torn down. The variance request for this facility is no longer valid.

The Republic Steel facility in Gadsden has been purchased and is now Gulf States Steel, Inc. The Department has been working on reissuance of Gulf States Steel's NPDES permit for several months. Our discussions with representatives of Gulf States Steel indicate that they wish to keep the variance request open for the interim period, pending the outcome of negotiations and issuance of their NPDES permit.

As you may be aware, when the Iron and Steel Guidelines were promulgated, the Gadsden facility was one of 21 facilities which were excluded from meeting those guidelines pending development of alternative guidelines for central treatment facilities. To date, guidelines for the Gadsden plant have not been finalized by EPA. Since we have no guidelines to utilize for a permitting rationalizing we will be proposing a BPJ permit which will address water quality standards and may or may not be in accordance with existing Iron and Steel Guidelines.

In the absence of promulgated effluent guidelines, the Department is notifying EPA that it is making no recommendation in response to the 301(g) variance request for the Gulf States Steel facility in Gadsden.

Should you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

/s/_____
John A. Poole, Jr.
Chief
Industrial Branch
Water Division

JAP:bjp

cc: Mr. Kenneth Means
Weston Services, Inc.

APPENDIX Y

MAYNARD, COOPER, FRIERSON & GALE, P.C.

ATTORNEYS AT LAW
TWELFTH FLOOR WATTS BUILDING
BIRMINGHAM, ALABAMA 35203
(205) 252-2889
TELECOPIER (205) 252-2958 or 251-1703
TELEX 38-3452

September 14, 1988

Mr. Kenneth Means
Mr. Buster Stewart
Gulf States Steel, Inc.
174 South 26th Street
Gadsden, Alabama 35904

Re: Administrative Order No. 88-081-WP

Dear Kenneth and Buster:

Enclosed please find a new Findings of Fact executed by Leigh Pegues. This new version corrects some typographical errors that were in the old version.

If you have any questions about this please feel free to give me a call.

Very truly yours,

/s/
H. Thomas Wells, Jr.

HTW, Jr./psr
Enclosure

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

September 12, 1988

Mr. Thomas H. Wells, Jr.
Maynard, Cooper, Frierson & Gale
Twelfth Floor Watts Building
Birmingham, Alabama 35203

Dear Mr. Wells:

RE: Administrative Order No. 88-081-WP
Our file # WP-15-157

Enclosed please find a copy of Administrative Order No. 88-081-WP in which several typographical errors included in the original order have been corrected.

If you have any questions, please feel free to call me.

Sincerely,

/s/
Olivia H. Jenkins
General Counsel

OHJ/daf

Enclosure

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF

GULF STATES STEEL, INC.
GADSDEN, ALABAMA
NPDES PERMIT NUMBER AL0055239

ORDER NO. 88-081-WP

FINDINGS OF FACT

Pursuant to the provisions of the Alabama Environmental Management Act, *Code of Alabama* 1975, §§22-22A-1 through 22-22A-16 (1984 and 1987 Cum. Supp.), the Alabama Water Pollution Control Act, *Code of Alabama* 1975, §§22-22-1 through 22-22-14 (1984 and 1987 Cum. Supp.) and the National Pollutant Discharge Elimination System administered by the Alabama Department of Environmental Management (hereinafter "the Department") and approved by the Administrator of the U.S. Environmental Protection Agency pursuant to the Federal Water Pollution Control Act, § 402, 33 U.S.C. § 1342, the Department makes the following FINDINGS OF FACT:

1. Gulf States Steel, Inc. (hereinafter "the Permittee") operates an integrated steel making facility located in Gadsden Alabama.

2. On December 4, 1987 the Department issued NPDES Permit Number AL0055239 to the Permittee authorizing the discharge of pollutants, industrial wastes and other wastes subject to certain terms, limitations and conditions, from a point source designated therein as DSN-001 to Black Creek, a water of the state.

3. Among the terms, limitations and conditions contained in said permit are daily maximum and daily average discharge

limitations for ammonia nitrogen (NH3-N), total cyanide (Cn,T), total zinc (Zn,T) and total lead (Pb,T). Said discharge limitations are as follows:

	NH3-N (mg/1)	**Cn,T (mg/1)**	**Zn,T (mg/1)**	**Pb,T (mg/1)**
Daily Maximum	0.67	0.02	0.18	0.03
Daily Average	0.67	0.02	0.18	0.03

4. The Permittee has violated these discharge limitations as follows:

Date	**NH3-N (mg/1)**	**Cn,T (mg/1)**	**Zn,T (mg/1)**	**Pb,T (mg/1)**
12/09/87	0.88	0.034	0.25	0.08
12/09/87	1.35	0.065	0.030	0.08
12/11/87	1.90	0.046	0.24	0.04
12/14/87	1.55	0.038	0.47	0.15
12/15/87	1.98	0.046	0.35	
12/16/87	1.37	0.038	0.23	
12/17/87	1.55	0.075	0.28	
12/18/87	1.19	0.056	0.27	
12/20/87	1.70	0.030	0.46	
12/21/87	1.03	0.045	0.23	
12/22/87	1.16	0.060	0.33	
12/23/87	1.33	0.054	0.29	
12/24/87	1.17	0.032	0.25	
12/27/87	1.55	0.023		
12/28/87	1.31	0.042	0.47	
12/29/87	1.58	0.046	0.29	
12/30/87	1.23	0.062	0.28	
12/31/87	1.62	0.030	0.26	
12/87 average	1.41	0.050	0.30	
01/03/88	1.15	0.03	0.29	
01/04/88	1.39	0.10	0.25	
01/05/88	1.29	0.05	0.20	

01/06/88	1.25	0.05		
01/07/88	1.23	0.10	0.23	
01/10/88	1.27	0.27		
01/11/88	1.01	0.18		0.04
01/12/88	1.23	0.12		
01/13/88	2.06	0.16		
01/14/88	1.07	0.17		
01/17/88	0.92	0.12		
01/18/88	1.03	0.13	0.24	
01/19/88	1.09	0.14		
1/20/88	0.78	0.06		
01/21/88	0.27	0.11	0.27	
01/24/88	1.42	0.14		
01/25/88	1.31	0.13		
01/26/88	1.19	0.12		
01/27/88	1.35	0.15	0.19	
01/28/88	2.15	0.1	0.2	
01/31/88	0.97	0.08		
01/88 average	1.26	0.12		
02/01/88	1.77	0.05		
02/02/88	1.92	0.07		
02/03/88	1.22	0.06	0.22	
02/04/88	1.39	0.09		
02/07/88	1.29	0.14	0.20	
02/08/88	1.35	0.04		
02/09/88	1.13	0.06	0.21	
02/10/88	1.27	0.14	0.27	
02/14/88	1.09	0.06		
02/15/88	0.95	0.08		
02/16/88	0.96	0.07		
02/17/88	1.07	0.08		
02/18/88	1.20	0.08	0.22	
02/21/88	1.75	0.13	0.19	
02/22/88	1.23	0.10	0.24	
02/23/88	1.87	0.09		

02/24/88	1.44	0.07	
02/25/88	5.58	0.11	
02/28/88	1.03	0.04	
02/29/88	0.92	0.11	
02/88 average	1.49	0.08	
03/01/88	0.87	0.15	
03/02/88	0.85	0.09	0.21
03/03/88	2.09	0.10	0.23
03/06/88	1.15	0.13	0.25
003/07/88	1.07	0.11	
03/08/88	1.34	0.16	
03/09/88	1.03	0.10	0.20
03/10/88	1.21	0.13	0.19
03/13/88	1.03	0.16	
03/14/88	0.88	0.11	
03/15/88	0.85	0.13	
03/16/88	0.95	0.10	
03/17/88	1.01	0.07	
03/20/88	0.90	0.06	
03/21/88	1.15	0.10	0.19
03/22/88	1.10	0.11	
03/23/88	1.35	0.08	
03/24/88	1.29	0.10	0.20
03/27/88	0.97	0.07	
03/28/88	1.67	0.11	
03/29/88	1.22	0.05	0.20
03/30/88	1.10	0.07	
03/31/88	1.35	0.06	
03/88 Average	1.15	0.10	
04/03/88		0.06	
04/04/88		0.05	
04/05/88		0.04	0.19
04/06/88		0.05	0.21
04/08/88	1.42	0.05	

04/10/88	1.11	0.04	0.23
04/11/88	1.27	0.05	
04/12/88	1.42	0.11	
04/13/88	5.72	0.16	0.19
04/14/88	4.00	0.16	
04/17/88	1.31	0.05	
04/18/88	1.03	0.03	0.26
04/19/88	1.11	0.04	0.19
04/20/88	1.03	0.05	0.21
04/21/88	1.93	0.07	
04/24/88	1.33	0.06	
04/25/88	1.15	0.06	
04/26/88	0.92	0.08	
04/27/88	0.94	0.08	0.19
04/28/88	0.81	0.06	0.22
04/88 average	1.41	0.07	
05/01/88	0.81	0.05	
05/02/88	0.74	0.06	0.19
05/03/88	0.76	0.06	
05/04/88	0.85	0.07	
05/05/88	0.99	0.05	
05/08/88	1.31	0.07	
05/09/88	0.88	0.06	
05/10/88	0.99	0.05	0.21
05/11/88	0.97	0.05	
05/12/88	1.21	0.08	
05/15/88	0.92	0.05	
05/16/88	1.01	0.07	0.22
05/17/88	1.39	0.07	
05/18/88	1.31	0.08	
05/19/88	1.25	0.07	
05/22/88	1.23	0.05	
05/23/88/	1.03	0.05	
05/24/88	0.92	0.03	
05/25/88	1.07	0.04	

05/27/88	1.29	0.06
5/28/88	1.13	0.05
05/30/88	1.35	0.07
05/31/88	1.92	0.08
05/88 average	1.10	0.06

ORDER

Based upon the foregoing FINDINGS OF FACT and pursuant to *Code of Alabama* 1975, § 22-22A-5(10), 22-22-9(c), 22-22-9(g), 22-22-9(i), and 22-22-9(k) (1984 and 1987 Cum. Supp.) and the National Pollutant Discharge Elimination System administered by the Department and approved by the Administrator of the U.S. Environmental Protection Agency pursuant to the Federal Water Pollution Control Act § 402, 33 U.S.C. 1342, it is hereby ORDERED:

A. That not later than 60 days after receipt of notice of this Order, the Permittee shall submit to the Department a pollution abatement plan designed to bring the Permittee's discharge into compliance with the terms, limitations and conditions of NPDES Permit Number AL0055239. Said plan shall be prepared by a registered professional engineer licensed to practice in the State of Alabama and shall be prepared in accordance with ADEM Admin. Code Chapter 6-3.

B. That not later than February 1, 1990 the Permittee shall have achieved and shall continuously maintain compliance with the terms, conditions and limitations of this Order.

C. That the failure of the Permittee to comply with any of the provisions of this Order shall constitute cause for the termination of NPDES Permit Number AL0055239 and/or the commencement of legal or other appropriate enforcement action by the Department against the Permittee for the recovery of civil penalties, criminal fines or other appropriate relief.

D. That the issuance of this Order does not preclude the Department from seeking the recovery of civil penalties,

criminal fines, or other appropriate relief against the Permittee for the violations cited herein.

ORDERED and ISSUED this 19th day of August, 1988.

/s/_____

Leigh Pegues, Director
Alabama Department of
Environmental Management
1751 Cong. W.L. Dickinson Drive
Montgomery, Alabama 36130
(205) 271-7855

APPENDIX Z

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

February 20,1990

CERTIFIED MAIL (P 070 963 725)
RETURN RECEIPT REQUESTED

K. W. Means
Gulf States Steel
174 South 26th Street
Gadsden, AL 35904

Dear Mr. Means:

Enclosed please find Administrative Order No. 90-074-WP which requires Gulf States Steel to take certain actions regarding the discharge of pollutants into waters of the State.

Please be advised that failure to comply with the terms of this Order can result in penalties of up to $25,000 per day for each violation as well as possible criminal penalties. Pursuant to *Code of Alabama* 1975, §22-22A-7(c)(1) this Order may be appealed by filing a request for hearing before the Environmental Management Commission within 15 days after receiving notice of this Order. The request should be addressed to the Chair of the Environmental Management Commission and should comply with the requirements of ADEM Admin. Code R. 335-2-1-.04. Copies of ADEM Admin. Code, Division 2, Environmental Management Commission regulations may be obtained by submitting a request in writing along with a check or money order for $1.25 for each copy requested. Written requests should be sent to the attention of the Office of General Counsel.

If you have any questions, please feel free to contact me at (205) 271-7977.

Yours very truly,

/s/_____
Olivia H. Jenkins
General Counsel

OHJ/daf

Enclosures

CC: Phil Davis, Water Division
Public Information Office
Doug Lankford, U.S. EPA, Region IV

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF

GULF STATES STEEL
GADSDEN, ALABAMA
NPDES PERMIT NUMBER AL0055239

ORDER NO. 90-074-WP

FINDINGS OF FACT

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§22-22-1 through 22-22A-16 (1984 and 1989 Cum. Supp.), the Alabama Water Pollution Control Act, Ala. Code §§22-22-1 through 22-22-14 (1984 and 1989 Cum. Supp.), and the National Pollutant Discharge Elimination System administered by the Alabama Department of Environmental Management (hereinafter "the Department") and approved by the Administrator of the U.S. Environmental Protection Agency pursuant to the Federal Water Pollution Control Act, §402, 33 U.S.C. §1342, the Department makes the following FINDINGS OF FACT:

1. Gulf States Steel, Inc. (hereinafter "the Permittee") operates an integrated steel making facility located in Gadsden, Alabama.

2. On December 4, 1987 the Department issued NPDES Permit Number AL0055239 to the Permittee authorizing the discharge of pollutants and other wastes from a point source designated therein as DSN-001 to Black Creek, a water of the state, subject to certain terms, limitations and conditions.

3. On August 19, 1988 the Department issued administrative Order No. 88-081-WP to the Permittee citing numerous violations of NPDES Permit Number Al0055239.

4. An error in Administrative Order No. 88-081-WP required the Permittee to comply with "the terms, conditions and limitations of this Order."

5. The requirement should have been to comply with the terms, conditions and limitations of NPDES Permit Number AL0055239.

ORDER

Based upon the foregoing FINDINGS OF FACT and pursuant to Ala. Code §§22-22A-5(10), 22-22A-5(18), 22-22-9(g), 22-22-9(i), and 22-22-9(k) (1984 and 1989 Cum. Supp.), and the National Pollutant Discharge Elimination System administered by the Department and approved by the Administrator of the U.S. Environmental Protection Agency pursuant to the Federal Water Pollution Control Act §402, 33 U.S.C. 1342, it is hereby ORDERED:

A. That paragraph B of Administrative Order No. 88-081-WP is hereby deleted in its entirety and the following paragraph is substituted in its place:

That not later than March 1,1990 the Permittee shall have achieved and shall continuously maintain, until the expiration of said permit, compliance with NPDES Permit Number AL0055239.

B. That the failure of the Permittee to comply with any of the provisions of this Order shall constitute cause for the termination of NPDES Permit Number AL0055239 and/or the commencement of legal or other appropriate enforcement action by the Department against the Permittee for the recovery of civil penalties, criminal fines or other appropriate relief.

C. That the issuance of this Order does not preclude the Department or others from seeking the recovery of civil penalties, criminal fines, or other appropriate relief against the Permittee for the violations cited herein.

ORDERED and ISSUED this 21st day of February, 1990.

/s/_____

Leigh Pegues, Director
Alabama Department of
Environmental Management
1751 Cong. W.L. Dickinson Drive
Montgomery, Alabama 36130
(205) 271-7700

CERTIFICATE OF SERVICE

I, Olivia H. Jenkins, hereby certify that I have served Order No. 90-074-WP, upon Gulf States Steel by sending the same postage paid, through the U.S. Mail, as Certified Mail No. P070 963 725, with instructions to forward and return receipt requested to:

Mr. K. W. Means
Gulf States Steel
174 South 26th Street
Gadsden, Al 35904

Done this 21st day of February, 1990.

/s/
Olivia H. Jenkins

APPENDIX AA

IN THE CIRCUIT COURT FOR ETOWAH COUNTY, ALABAMA

State of Alabama, ex rel
James N. Evans, Attorney General,
Plaintiff,

vs.

Gulf States Steel, Inc. of Alabama
Defendant.

Civil Action No. W91-242-NWO

COMPLAINT

1. This action is brought by the State of Alabama on the relation of James N. Evans, Attorney General, ("Plaintiff") to enforce the provisions of the provisions of the Alabama Water Pollution Control Act, and for declaratory judgment.

2. The Attorney General is authorized by *Code of Alabama 1975*, §22-22A-5(2), §22-22-9(m), §22-22-9(n), §22-22-9(o) and §22-22A-5(12) to enforce the provisions of the Water Pollution Control Act found at *Code of Alabama 1975*, §22-22-1 et seq. Additionally, the Attorney General, pursuant to §22-22A-5(12), is the legal representative of the Alabama Department of Environmental Management ("ADEM") in all legal actions.

3. Defendant, Gulf States Steel, Inc. of Alabama (herein after Gulf States Steel), is a Delaware corporation qualified under the laws of this State to do business in Etowah County, Alabama.

4. Gulf States Steel operates an integrated steel making facility in Gadsden, Alabama.

5. Defendant and its predecessor have had a history of surface water violations for over 6 years. In addition, long existing underground storage tanks on site and the presence of benzene in a ditch on the site which leads to a water treatment facility require an evaluation of Gulf States Steel site for ground water contamination.

COUNT I

6. Plaintiff realleges paragraphs 1 through 4 above.

7. Pursuant to *Code of Alabama 1975*, §22-22-9(g), the Alabama Department of Environmental Management ("ADEM") issued permit No. AL0055239 to Gulf States Steel authorizing the discharge of pollutants from outfall serial number D6W001 to Black Creek, a water of the State, subject to certain limitations, terms and conditions.

8. Among the limitations contained in that permit are daily average and daily maximum limitations for oil and grease (O & G), ammonia nitrogen (NH3-N), cyanide (CN), lead (Pb), Zinc (ZN), Phenols (PNEW), total suspended solids (TSS) and daily minimum limitations for dissolved oxygen (DO) and daily maximum limitations for pH (PH). Those limitations are as follows:

	TSS	DO	O&G	NH3-N	CN
Daily Minimum	—	3.5 mg/l	—	—	—
Daily mg/l Average	9mg/l	—	6.0 mg/l	.67 mg/l	.02mg/l
Daily Maximum	22.5 mg/l	—	15.0 mg/l	.67 mg/l	.02 mg/l

	Pb	ZN	PNEN	pH
Daily Minimum	—	—	—	6.0 S. U.
Daily Average	.03 mg/l	.18 mg/l	.03 mg/l	9 S.U.
Daily Maximum	.03 mg/l	.18 mg/l	.065 mg/l	NA

9. During the following months, Gulf States Steel committed the following number of violations by discharging pollutants from the point source into Black Creek in violation of the discharge limitations set out in NPDES Permit Number AL00552239:

MONTH	DAYS OF VIOLATIONS	PARAMTER	MONITORING REPORT VIOLATIONS
April 1969	22	DO	1
		TSS	2
		NH3N	21
		CN	3
		EN	8
May 1989	22	NH3N	22
		CN	1
		ZN	8
June 1989	21	DO	5
		TSS	1
		NH3N	20
		CN	3
		ZN	9

MONTH	DAYS OF VIOLATIONS	PARAMTER	MONITORING REPORT VIOLATIONS
July 1989	14	DO	3
		NH3N	6
		CN	4
		ZN	9
August 1989	22	DO	17
		NH3N	3
		Fb	1
		ZN	14
September 1989	13	NH3N	4
		CN	4
		ZN	10
October 1989	13	NH3N	3
		CN	4
		ZN	10
November 1989	13	CN	5
		ZN	10
December 1989	19	TSS	3
		NH3N	10
		CN	19
		ZN	7
		PHEN	8
January 1990	22	NH3N	9
		CN	19
		ZN	11
		PHEN	3
February 1990	19	NH3N	6
		CN	17
		ZN	18

MONTH	DAYS OF VIOLATIONS	PARAMTER	MONITORING REPORT VIOLATIONS
July 1990	14	NH3N	10
		CN	3
		ZN	3
		PHEN	3
August 1990	16	NH3N	18
		ZN	3
		PHEN	2
September 1990	14	NH3N	6
		CN	5
		Fb	2
		PHEN	2

10. *Code of Alabama 1975*, §22-22A-5(18)(b), (c) provides as follows:

> In addition to any other powers and functions which may be conferred upon it by law, the department is authorized beginning October 1982 to:
>
> * * * *
>
> (b) Commence a civil action in the circuit court of the county in which the defendant or any material defendant resides or does business or in which the violation occurred to recover a civil penalty from such person for any violation of any provision of law identified in subdivision (1) of this section, any rule, regulation or standard promulgated by the department, any provision of any order or any condition of any permit, license, certification or variance issued by the department, *provided however, that no such civil action may be commenced against a person if an order assessing a*

civil penalty for such violation has been issued to such person under paragraph a, of this subdivision. Whenever such person is a corporation and the violation is of a provision of law in chapter 22 of this title, or any rule, regulation or standard promulgated by the department thereunder, or any provision of any order or any condition of any permit, license, certification or variance issued by the department thereunder, the same civil penalties that may be imposed upon the responsible corporate officers in a civil action. Any person having an interest which is or may be adversely affected may intervene as a matter of right in any civil action commenced under this paragraph. The attorney general may also commence a civil action under this paragraph.

(c) Any civil penalty assessed or recovered under paragraph a. or b. of this subdivision shall not be less than $100.00 or exceed $25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the department under paragraph a. of this subdivision shall not exceed 25,000.00. Each day such violation continues shall constitute a separate violation for purposes of this subdivision. In determining the amount of any penalty, consideration shall be given to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent and degree of success of such person's efforts to minimize or mitigate the effects of such violation upon the environment; such person's history of previous violations; and

> the ability of such person to pay such penalty. Civil penalties may be assessed under this subdivision for any violation occurring within two years prior to the date of issuance of any order under paragraph a. of this subdivision or commencement of such civil action under paragraph b. of this subdivision....

Wherefore, Plaintiff requests that the Court:

A. Take jurisdiction of this matter.

B. Declare that Gulf States Steel violated the terms and conditions of the permit issued by ADEM.

C. Assess a civil penalty against Gulf States Steel and in favor of the plaintiff pursuant to §22-22A-5(18) (b) and (c) for each and every day of violation of its NPDES permit.

D. Order defendant to take such corrective action as may be required to insure that surface and ground water meet necessary state and federal legal and regulatory discharge requirements.

E. Grant such other relief as may be appropriate.

F. Tax the costs of this action against the defendants.

RESPECTFULLY SUBMITTED

JAMES H. EVANS
ATTORNEY GENERAL
BY:

/s/
R. CRAIG KNEISEL
Assistant Attorney General

/s/
WILLIAM D. LITTLE
Assistant Attorney General

ADDRESS OF COUNSEL:

OFFICE OF THE ATTORNEY GENERAL
ALABAMA STATE HOUSE
11 SOUTH UNION STREET
MONTGOMERY, ALABAMA 36130
(205) 242-7406

APPENDIX BB

Alabama Department of
Environmental Management

May 30, 1991

CERTIFIED MAIL (P 831 862 203)
RETURN RECEIPT REQUESTED

H. Thomas Wells
Maynard, Cooper, Frierson & Gale
1901 Sixth Avenue North
AmSouth/Harbert Plaza, Suite 2400
Birmingham, AL 35203-2602

Dear Tommy:

Enclosed please find Administrative Order No. 91-115-WP which requires Gulf States Steel to take certain actions regarding the discharge of pollutants into waters of the State.

Please be advised that failure to comply with the terms of this Order can result in penalties of up to $25,000 a day for each violation as well as possible criminal penalties. Pursuant to *Code of Alabama* 1975, § 22-22A-7(c)(1) this Order may be appealed by filing a request for hearing before the Environmental Management Commission within 15 days after receiving notice of this Order. The request should be addressed to the Chair of the Environmental Management Commission and should comply with the requirements of ADEM Admin. Code R. 335-2-1-.04. Copies of ADEM Admin. Code, Division 2, Environmental Management Commission regulations may be obtained by submitting a request in writing along with a check or money order for $2.00 for each copy requested. Written requests should be sent to the attention of the Office of General Counsel.

If you have any questions, please feel free to contact me at (205) 271-7977.

Yours very truly,

/s/
Olivia H. Jenkins
General Counsel

OHJ:df/37
Enclosures
CC: Phil Davis, Water Division
Public Affairs Office
Doug Lankford, U.S. EPA, Region IV
Marilyn Elliott, Permits & Services

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF

GULF STATES STEEL
GADSDEN, ALABAMA
NPDES PERMIT NUMBER AL0055239

ORDER NO. 91-115-WP

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code (1975), §§ 22-22A-1 through 22-22A-16 (1990 Rplc. Vol.), the Alabama Water Pollution Control Act, Ala. Code (1975), §§ 22-22-1 through 22-22-14 (1990 Rplc. Vol.), and the National Pollutant Discharge Elimination System administered by the Alabama Department of Environmental Management (hereinafter "the Department") and approved by the Administrator of the U.S. Environmental Protection Agency pursuant to the Federal Water Pollution Control Act § 402, 33 U.S.C. § 1342, the Department makes the following FINDINGS OF FACT:

1. Gulf States Steel, Inc. (hereinafter "the Permittee") operates an integrated steel making facility located in Gadsden, Alabama.

2. On December 4, 1987 the Department issued NPDES Permit Number AL0055239 to the Permittee authorizing the discharge of pollutants and other wastes from a point source designated therein as DSN-001 to Black Creek, a water of the state, subject to certain terms, limitations and conditions.

3. Among the terms, limitations and conditions of NPDES Permit Number AL0055239 are daily maximum and monthly average discharge limitations for ammonia as nitrogen

(NH3-N), cyanide (CN,T), lead (Pb,T), total zinc (Zn,T) and phenols (PHEN). Said limitations are as follows:

PARAMETER	NH3-N (mg/1)	CN,T (mg/1)	Pb,T (mg/1)	Zn,T (mg/1)	PHEN (mg/1)
Daily Maximum	0.67	0.02	0.03	0.18	0.085
Daily Average	0.67	0.02	0.03	0.18	0.03

4. On February 21, 1990 the Department issued Administrative Order Number 90-074-WP to the Permittee citing violations of said permit discharge limitations and requiring it to achieve compliance with the terms, limitations and conditions of NPDES Permit Number AL0055239 no later than March 1, 1990.

5. On October 24, 1990 the Department issued Administrative Order No. 91-001-WP to the Permittee again citing violations of said permit discharge limitations and requiring it to achieve compliance with the terms, limitations and conditions of NPDES Permit Number AL0055239 no later than December 1, 1990.

6. The Permittee has violated the terms, limitations and conditions of NPDES Permit Number AL0055239 as follows:

DATE	NH-3N (mg/1)	CN,T (mg/1)	Pb,T (mg/1)	Zn,T (mg/1)	PHEN (mg/1)
12/2/90	0.74	0.03			
12/3/90	0.8	0.07			
12/7/90	0.99			0.42	
12/9/90	1.51		0.04		
12/10/90	1.44	0.03			
12/11/90	0.96				
12/14/90	1.58	0.06			
12/16/90	1.35	0.05			
12/17/90	1.72	0.05			
12/18/90	0.99				
12/19/90	1.07				

DATE	NH-3N (mg/1)	CN,T (mg/1)	Pb,T (mg/1)	Zn,T (mg/1)	PHEN (mg/1)
12/24/90		0.04			0.18
12/26/90	1.05				
12/27/90		0.03			
12/28/90	1.03	0.08		0.23	
12/90 Avg.	0.92	0.03			0.05
1/2/91	0.71	0.03			
1/3/91	2.15	0.04			
1/4/91	0.58	0.03			
1/6/91	1.62				
1/7/91	0.78				
1/8/91	3.16				
1/9/91	2.21				0.21
1/11/91		0.07			
1/13/91	0.76	0.05			
1/14/91		0.04			
1/15/91		0.06			
1/16/91		0.05			
1/19/91				0.36	
1/20/91		0.03		0.2	
1/21/91		0.06			
1/22/91		0.03			
1/23/91		0.04			0.24
1/28/91					0.11
1/30/91		0.04		0.23	
1/91 Avg.	0.83	0.03			0.05
2/5/91	1.48				
2/6/91	0.81	0.03			
2/8/91		0.05			
2/11/91		0.05			
2/12/91		0.03			
2/13/91		0.06			
2/15/91		0.03			
2/17/91					0.12

DATE	NH-3N (mg/1)	CN,T (mg/1)	Pb,T (mg/1)	Zn,T (mg/1)	PHEN (mg/1)
2/18/91	0.73	0.06			0.1
2/19/91		0.04		1.23	
2/20/91				0.28	
2/24/91		0.04			
2/25/91		0.05			
2/26/91	0.69	0.04			
2/27/91		0.03			
2/91 Avg.		0.03			0.04

7. On November 30, 1990 the Permittee notified the Department that it would not meet the December 1, 1990 compliance date contained in Administrative Order No. 91-00-WP and requested an extension of the December 1, 1990 compliance date to December 31, 1990. As grounds for said request, the Permittee stated that equipment designed to modify the pH adjustment in the second reaction basin had been placed into service on October 25, 1990, but before any results could be obtained, a pump had developed a leak, leading to "virtual destruction" of the pump. The Permittee informed the Department that the pump had been removed and rebuilt but had just become available for use, and insufficient time remained to evaluate the efficacy of the modification. The Permittee requested that the delay be considered a force majeure event.

8. On December 5, 1990 the Department responded to the Permittee and denied the request for an extension of the compliance date.

9. The steps taken by the Permittee to minimize or mitigate the effects of these violations upon the environment have not resulted in compliance with the terms, limitations and conditions of the permit.

10. The permit limitations are based upon water quality standards, and violation of said limitations may result in viola-

tions of said limitations may result in violation of water quality standards.

11. The Permittee has the ability to pay a civil penalty.

ORDER

Based upon the foregoing Findings and pursuant to Ala. Code (1975), §§ 22-22A-5(10), 22-22A-5(18), 22-22-9(g), 22-22-9(i), and 22-22-9(k) (1990 Rplc. Vol.), and the National Pollutant Discharge Elimination System administered by the Department and approved by the Administrator of the U.S. Environmental Protection Agency pursuant to the Federal Water Pollution Control Act § 402, 33 U.S.C. § 1342, it is hereby Ordered:

A. That not later than November 1, 1991, the Permittee shall achieve compliance with NPDES Permit Number AL0055239 and shall continuously maintain said compliance each and every day thereafter until the expiration date of said permit.

B. That not later than 30 days after receipt of notice of this Order the Permittee shall pay to the Department a civil penalty in the amount of Eighty-one Thousand Dollars ($81,000).

C. That the failure of the Permittee to comply with any of this Order shall constitute cause for the termination of NPDES Permit Number AL0055239 and/or the commencement of legal or other appropriate enforcement action by the Department against the Permittee for the recovery of civil penalties, criminal fines or other appropriate relief.

D. That the issuance of this Order does not preclude the Department from seeking the recovery of criminal fines or other appropriate relief against the Permittee for the violations cited herein.

ORDERED and ISSUED this 30th day of May, 1991.

/s/

Leigh Pegues, Director
Alabama Department of
Environmental Management
1751 Cong. W. L. Dickinson Dr.
Montgomery, Alabama 36130
(205) 271-7700

CERTIFICATE OF SERVICE

I, Olivia H. Jenkins, hereby certify that I have served Order No. 91-115-WP upon Gulf States Steel by sending the same, postage paid, through the U.S. Mail, as Certified Mail No. P 831 862 203, with instructions to forward and return receipt requested to:

H. Thomas Wells
Maynard, Cooper, Frierson & Gale
1901 Sixth Avenue North
AmSouth/Harbert Plaza, Suite 2400
Birmingham, AL 35203-2602

Done this 30th day of May, 1991.

/s/
Olivia H. Jenkins

APPENDIX CC

**IN THE CIRCUIT COURT OF
ETOWAH COUNTY, ALABAMA**

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT
Plaintiff**

v.

**GSSI, INC. d/b/a
GULF STATES STEEL, INC.
a wholly owned subsidiary
of the Brenlin Corporation
Defendant**

CIVIL ACTION NO. CV 88-856-JSS

CONSENT ORDER

The parties to this Consent Order are the Plaintiff, Alabama Department of Environmental Management (hereinafter "the Department"), and the Defendant GSSI, Inc., doing business as Gulf States Steel, Inc. (hereinafter "Gulf States"), an Alabama corporation and a wholly owned subsidiary of the Brenlin Corporation.

This Consent Order shall apply to the claims of the Department against Gulf States for any of the acts complained of by the Department in its Complaint.

Gulf States has denied the allegations presented in the Department's Complaint. Nevertheless, Gulf States has agreed to the terms of this Consent Order in order to satisfy any liability relating to the acts complained of by the Department in its Complaint and to avoid the expense, inconvenience, and distraction of protracted litigation.

The Department has agreed to the terms of this Consent Order in order to terminate the controversy with Gulf States regarding the allegations in its Complaint and the Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

Therefore, the parties having filed a joint motion for Entry of a Consent Order and good cause appearing, it is hereby ORDERED, ADJUDGED, AND DECREED:

ARTICLE ONE

That with regard to emissions from Coke Batteries No. 2 and No. 3, Gulf States Steel is ordered to accomplish the following modifications:

1. Gulf States Steel will replace the fuel gas preheater and install a filtering system for combustion air in accordance with the following schedule:

A. Install fuel gas preheater on No. 3 coke battery by July 30, 1988.

B. Install fuel gas preheater on No. 2 coke battery by November 30, 1988.

C. Install filtering system for combustion air on No. 3 coke battery by December 31, 1988.

2. Gulf States Steel will make end flue repairs and through wall repairs on the No. 2 coke battery in accordance with the following schedule.

A. Complete coke side end flue repairs by December 31, 1988.

B. Complete push side end flue repairs by March 31, 1989.

C. Complete through wall repairs on four ovens by June 1, 1989.

3. Gulf States Steel will address door emissions in accordance with the following schedule:

A. (1) Complete design engineering for Saturn doors by August 31, 1988.

(2) Modify 8 Saturn doors for No. 3 coke battery by September 30, 1988.

(3) Complete installation of 8 Saturn doors on No. 3 battery by October 28, 1988.

(4) Submit to the Department by December 30, 1988 an interim evaluation report on the Saturn doors installed on the No. 3 coke battery.

B. (1) Modify 22 additional Saturn doors for installation on No. 2 and No. 3 coke batteries by December 15, 1988.

(2) Complete installation of 10 doors on No. 2 battery and an additional 12 doors on No. 3 battery by December 30, 1988.

C. (1) By April 27, 1989, complete an evaluation of the Saturn doors and submit to the Department a plan and schedule to achieve replacement of all doors on No. 2 coke battery or an alternate method for achieving and maintaining compliance with applicable method for achieving and maintaining compliance with applicable regulations regarding doors. This alternative plan and schedule shall have a final compliance date no later than April 30, 1990.

(2) By April 27, 1989, complete an evaluation of the Saturn doors and submit to the Department a plan and schedule to achieve replacement of all doors on No. 3 coke battery or an alternative method for achieving and maintaining compliance with applicable regulations regarding doors which plan and schedule shall have a final compliance date no later than April 30, 1990.

4. A. Gulf States Steel will achieve compliance with Section 4.9.4(a) of the Alabama Air Pollution Control Rules and Regulations relating to pushing on the No. 2 battery by July 1, 1989, and shall continuously maintain compliance each and every day thereafter.

B. Gulf States will achieve compliance with Section 4.9.8 of the Alabama Air Pollution Control Rules and Regulations relating to combustion stacks on the No. 2 battery by July 1, 1989, and shall continuously maintain compliance each and every day thereafter.

C. Gulf States Steel will achieve compliance with Section 4.9.6(a) of the Alabama Air Pollution Control Rules and Regulations relating to doors on the No. 2 battery by April 30, 1990, and shall continuously maintain compliance each and every day thereafter.

5. A. Gulf States Steel will achieve compliance with Section 4.9.4(a) of the Alabama Air Pollution Control Rules and Regulations relating to pushing on the No. 3 battery by December 31, 1988 and shall continuously maintain compliance each and every day thereafter.

B. Gulf States Steel will achieve compliance with Section 4.9.8 of the Alabama Air Pollution Control Rules and Regulations relating to combustion stacks on the No. 3 battery by December 31, 1988 and shall continuously maintain compliance each and every day thereafter.

C. Gulf States Steel will achieve compliance with Section 4.9.6(a) of the Alabama Air Pollution Control Rules and Regulations relating to doors on the No. 3 battery by April 30, 1990 and shall continuously maintain compliance each and every day thereafter.

ARTICLE TWO

That with regard to emissions from the Basic Oxygen Furnace Building (BOFB), Gulf States Steel is ordered to make the following modifications:

1. Install a fume suppression system on the hot metal transfer station in accordance with the following schedule:

A. Complete engineering by September 30, 1988.

B. Procure materials by December 2, 1988.

C. Complete fabrication and installation by January 31, 1989.

2. Extend baghouse coverage to the slag skimmer in accordance with the following schedule:

A. Complete engineering by August 1, 1988.

B. Procure materials by December 31, 1988.

C. Complete fabrication and installation by February 28, 1989.

3. Gulf States Steel will achieve compliance with Section 4.17.1 of the Alabama Air Pollution Control Rules and Regulations relating to emissions from the BOFB by March 1, 1989 and shall continuously maintain compliance each and every day thereafter.

ARTICLE THREE

1. That Gulf States Steel will develop and submit to the Department a written Operation and Maintenance (O&M) Manual for the coke plant and the operations inside the BOFB by December 30, 1988.

2. That Gulf States Steel will implement the O&M Manuals by January 31, 1989.

ARTICLE FOUR

1. That Gulf States Steel shall pay within ten days of the issuance of this Order a penalty in the amount of $75,000.00 for all violations of the Air Pollution Control Rules and Regulations cited in attached Appendix A which is incorporated as if fully set out herein.

2. That said penalty fully relieves Gulf States Steel from the imposition of any other sanction by the Department with respect to the violations of the Air Pollution Control Rules and Regulations cited in attached Appendix A.

3. That Gulf States Steel is not relieved from any liability if it fails to comply with any provision of this Order.

ARTICLE FIVE

That if Gulf States Steel shall fail to comply with the terms of Article One, paragraphs 1, 2, 3A or 3B; Article Two, paragraphs 1 or 2; or Article Three, paragraph 1 of this Order, it shall pay to the Department stipulated penalties as follows:

> Two Hundred and Fifty Dollars ($250) per day for every day up through sixty (60) days beyond the applicable dates specified in this Order and Five Hundred Dollars ($500) per day for every day beyond sixty (60) days up through one hundred and eighty (180) days beyond applicable dates specified in this Order. If Gulf States Steel shall fail to comply with aforementioned terms at the expiration of one hundred and eighty (180) days, the Department may apply to the court for such other further relief as may be appropriate.

ARTICLE SIX

That if Gulf States Steel fails to comply with the compliance dates set forth in Article One, paragraphs 3C(1), 3C(2),

4A, 48, 4C, 5A, 5B, or 5C; or Article Two, paragraph 3 of this Order, with respect to each violation of each paragraph, it shall pay to the Department stipulated penalties as follows:

> One thousand dollars ($1,000.00) for the first violation of any specified paragraph and amounts increasing in One Thousand Dollar ($1,000.00) increments for each subsequent violation for the first one hundred and eighty (180) days. For violation occurring after one hundred and eighty (180) days, the Department may apply to the court for such other relief that may be appropriate. Violations of the compliance dates may be documented by inspections of the Department personnel, EPA and/or the independent certified visible emissions observer provided for in Article Eight, paragraph 2.

ARTICLE SEVEN

That prior to the final compliance dates set forth in Article One and Two above, Gulf States Steel will comply with the following interim emission limits:

1. Coke battery No. 2:

A. There shall be no visible emission during the pushing cycle, other than water mist or vapor, with an opacity which is greater than 60% for more than 3 pushes per hour.

B. There shall be no visible emissions, except non-smoking flame, from any opening on the coke oven doors from more than 20% of the coke oven doors at any one time.

C. There shall be no visible emissions, other than water mist or vapor, with an opacity greater than 40% from the combustion stack, except for a period or periods aggregating not more than 3 minutes in any consecutive 60 minutes.

2. Coke Battery No. 3:

A. There shall be no visible emission during the pushing cycle, other than water mist or vapor, with an opacity which is greater than 40% for more than 2 pushes per hour.

B. There shall be no visible emissions, except non-smoking flame, from any opening on the coke oven doors from more than 18% of the coke oven doors at any one time.

C. There shall be no visible emissions, other than water mist or vapor, with an opacity greater than 30% from the combustion stack, except for a period or periods aggregating not more than 3 minutes in any consecutive 60 minutes.

3. BOFB Monovent

A. Visible emissions from the roof monitor resulting from the charging, tapping, removal of slag from the Basic Oxygen Furnace vessel and operation of the Basic Oxygen Furnace shall not exceed a shade or density greater than twenty percent (20%) opacity as determined on a three (3) minute rolling average. Compliance shall be determined by using the procedures specified in Section 4.17.1 of the Alabama Air Pollution Control Rules and Regulations.

B. For the purpose of this Consent Order, emissions emanating from the largest monovent located directly above the two Basic Oxygen Furnaces will be considered to be emissions from charging, tapping operation of the Basic Oxygen Furnace or removal of slag from the Basic Oxygen Furnace vessel.

ARTICLE EIGHT

1. That by the 10th of every month, Gulf States Steel shall submit to the Department a report which specifies the progress it has made regarding all the scheduled activities detailed in this Consent Order and record any and all problems which were identified and corrected during the previous month which re-

lated to air pollution and the applicable regulations governing air pollution control in Alabama.

2. That Gulf States Steel shall hire a Department approved independent certified visible emissions observer to conduct a monthly Visible Emissions Evaluation which shall be performed at random 10 hours per month on each combustion stack and no more than 2 hours of observation per day per stack. Said monthly Visible Emissions Evaluation shall be made with out any advanced notice to Gulf States Steel and the results of said observations shall be reported directly to the Department by the observer by the 10th of every month. Said monthly Visible Emission Evaluations shall begin on or before January 1, 1989 and continue until such time the aforementioned stipulated penalties expire for the combustion stacks.

ARTICLE NINE

That if any event occurs which causes delays in the achievement of compliance or of any compliance schedule for controlling emissions or maintenance of compliance at Gulf States Steel's facility called for in this Order, Gulf States Steel shall as soon as possible, but no later than fifteen (15) days after the occurrence, notify in writing the Director of the Alabama Department of Environmental Management, describing in detail the length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Gulf States Steel to prevent or minimize the delay, and the timetable by which those measures will be implemented. Gulf States Steel shall employ all reasonable measures to avoid or minimize any such delay. If any delays are caused solely by circumstances entirely beyond the control of the owners and operators of Gulf States Steel's facility or of any entity controlling, controlled by, or under common control with the owners and operators, the time for compliance or for performance of the appropriate compliance schedule will be extended by the Director for a period equal to such delay resulting from such circumstances. The burden of

proving that the delay is caused by circumstances entirely beyond the control of the owners and operators of the facility shall rest with Gulf States Steel.

ARTICLE TEN

1. That any penalty due under Article Five or Article Six of this Consent Order shall be paid to the Alabama Department of Environmental Management within twenty (20) days of receipt by Gulf States Steel of written notification by the Department of penalties due under said Article, unless contested by Gulf States Steel. If Gulf State Steel contests the fact of a violation as alleged by the Department, Gulf States Steel shall, within twenty (20) days of receipt of notice of the violation, file a Notice of Contest with the Court, which shall thereafter decide the contest.

2. That this Court shall maintain jurisdiction over the matter to ensure that the terms of this Consent Order are complied with and to resolve all disputes which may arise out of this Consent Order.

3. That any assigns and successors of Gulf States Steel, Inc., GSSI, Inc., or The Brenlin Corporation shall be liable and held accountable under the terms of this Consent Order without limitation.

DONE and ORDERED on this 19th day of Dec., 1988.

/s/
Circuit Judge.

APPENDIX A

A. During inspections of the #2 Coke Battery, the Alabama Department of Environmental Management identified violations of Section 4.9.6(a) of the Air Pollution Control Rules and Regulations on the following dates:

October 31, 1986
January 13, 1987
March 4, 1987
December 9, 1987
December 15, 1987
January 12, 1988
January 26, 1988
February 22, 1988
February 29, 1988
March 7, 1988
March 15, 1988
March 17, 1988
March 30, 1988
April 4, 1988
July 6, 1988
July 13, 1988
August 10, 1988

B. During inspections of the #3 Coke Battery, the Alabama Department of Environmental Management identified violations of Section 4.9.6(a) of the Air Pollution Control Rules and Regulations on the following dates:

December 9, 1987
December 15, 1987
March 7, 1988
March 15, 1988
March 17, 1988
April 4, 1988
September 15, 1988

C. During inspections of the #2 Coke Battery, the Alabama Department of Environmental Management identified violations of Section 4.9.4(a) of the Air Pollution Control Rules and Regulations on the following dates:

December 21, 1987
February 29, 1988
July 6, 1988

D. During inspections of the #3 Coke Battery, the Alabama Department of Environmental Management identified violations of Section 4.9.4(a) of the Air Pollution Control Rules and Regulations on the following dates:

January 26, 1988
August 10, 1988

E. During inspections of the #2 Coke Battery, the Alabama Department of Environmental Management identified violations of Section 4.9.8 of the Air Pollution Control Rules and Regulations on the following dates:

December 15, 1986
February 3, 1987
March 17, 1987
July 8, 1987
July 16, 1987
August 19, 1987
August 29, 1987
December 3, 1987
January 21, 1988
January 26, 1988
February 22, 1988
February 29, 1988
March 7, 1988
April 4, 1988
April 15, 1988

F. During inspection of the #3 Coke Battery, the Alabama Department of Environmental Management identified violations of Section 4.9.8 of the Air Pollution Control Rules and Regulations on the following dates:

December 10, 1986
January 27, 1986
February 25, 1987
March 19, 1987
February 29, 1988
July 13, 1988

G. During inspections of the BOF Building, the Alabama Department of Environmental Management identified violations of Section 4.17.1 of the Air Pollution Control Rules and Regulations on the following dates:

February 3, 1987
February 20, 1987
July 16, 1987
January 12, 1988
February 22, 1988
February 29, 1988

December 9, 1987 April 15, 1988
July 13, 1988.

H. On August 25, 1987, inspectors from EPA identified violations of Section 4.9.4(a) and 4.9.8 of the Alabama Air Pollution Control Rules and Regulations. Violations of Section 4.9.8 were also noted on August 24, 1987 and violations of Section 4.17.1 were identified by EPA on August 26, 1987.